UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/SR.23
25 June 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 30 March 1998, at 3 p.m.

Chairman: Mr. SELEBI (South Africa)

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GE.98-11526 (E)

The meeting was called to order at 3 p.m.

STATEMENT BY MR. FERNANDO E. NARANJO VILLALOBOS, MINISTER FOR FOREIGN AND RELIGIOUS AFFAIRS OF COSTA RICA

1. Mr. NARANJO VILLALOBOS (Costa Rica) said that his country had been the seat of the first international tribunal to which individuals could resort and was currently hosting the Inter-American Court of Human Rights. Costa Rica was one of the first countries to ratify the Covenants and other international instruments concerning human rights and to propose, with the support of a large number of countries, the establishment of the Office of the United Nations High Commissioner for Human Rights. Costa Rica therefore had a long tradition in this regard, which prompted it to call upon the countries that had not yet done so to accede to, and ratify, the treaties in force, being convinced that such an initiative would inevitably contribute to respect for human rights and to the maintenance of international peace and security.

2. In particular, Costa Rica wished to draw attention to the need to finalize the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Costa Rica had initially proposed in 1991. In that regard, he welcomed the fact that a Costa Rican national had been elected chairman of the Working Group assigned to put that proposal into effect.

3. The Costa Rican delegation was disturbed by the politicization that all too frequently characterized the consideration of questions relating to human rights at the international level. The application of double standards in the face of situations that were sometimes extremely grave was a source of concern, particularly at a time when the world was celebrating the fiftieth anniversary of the Universal Declaration of Human Rights, which should provide an opportunity to focus attention on what was really important, namely effective respect for those rights.

4. The year 1998 also marked the fifth anniversary of the Vienna Declaration, which had established the principle of the indivisibility of all human rights and had emphasized the importance of the right to development, which was an essential right for many countries, including those in Central America.

5. In Costa Rica, respect for human rights formed part of the daily practice of the Government and the Costa Rican people and had motivated the establishment of supervisory institutions and mechanisms. From the standpoint of domestic law, the international instruments concerning human rights enjoyed the same status as the provisions of the country's Constitution. Accordingly, considerable progress had been made in fields such as the elimination of gender-based discrimination, the protection of children and respect for the rights of disabled persons, indigenous peoples and other groups.

6. In Costa Rica, human rights were taught as part of the education programmes. In fact, the country was convinced of the fundamental role that education played in that regard and that conviction had prompted it to propose the celebration of a United Nations decade for education in the field of human rights, a proposal that had been well received.

7. Finally, the Government had opted for sustainable development based on respect for nature. The Guaymies, the indigenous peoples of Costa Rica, actually believed that the earth was a living being which needed protection and that anything which affected the earth would likewise affect mankind. That ancestral belief, which still had its adepts in Costa Rica, was in a way the indigenous concept of the Universal Declaration of Human Rights.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 11) (continued) (E/CN.4/1998/74 and Add.1, 75 and 76)

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 16) (continued) (E/CN.4/1998/90, 91; E/CN.4/1998/NGO/14, 36; E/CN.4/Sub.2/1997/18; A/52/498)

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 18) (continued) (E/CN.4/1998/6 and Add.1 and 2 and Corr.1; E/CN.4/1998/115 and 121)

8. Mr. NARANG (European Union of Public Relations), speaking on agenda item 18, said that love and compassion were the cornerstones of all religions. It was man who had distorted the teachings of religion in pursuit of his base earthly ambitions and the perpetuation of his power. That explained why followers of different religions had, at one time or another, persecuted those who belonged to other faiths.

9. An example of that could be found today in Pakistan, where religious instruction was creating extremists who were determined to oppress those who did not subscribe to their ideology. Hence, the daily clashes between Sunnis and Shi'ites and the attacks on Christians, Ahmadis and Hindus. It was those same extremist groups which, through the Taliban, had exported their ideology to Afghanistan.

10. The Western countries were not immune to that infectious disease of intolerance. In the United Kingdom, militant groups were abusing democratic freedoms in order to preach hatred against Jews and followers of other faiths through the Internet, for example. However, it was not primarily to the Western countries, in which religion was no longer a factor in the conduct of public affairs, that an appeal for tolerance should be launched; it was to the countries that accorded religion a central place in affairs of State. Those countries should be informed that the international community was watching them carefully and expected them to ensure that the rights of minorities were protected.

11. Mrs. MARWAH (International Institute for Non-Aligned Studies), speaking on agenda items 16 and 18, said that the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which was adopted by the General Assembly in 1992, placed States under an obligation to protect the rights of minorities so that they could preserve their traditions and transmit them to future generations. However, it was often those same States that deprived minorities of their rights on grounds of their religion, their ethnic origin or their language. In most cases, majority

communities sought to integrate minorities through legislative measures or socio-cultural means. That tendency was being increasingly observed, even in States that prided themselves on being democratic. The State's inability to protect the rights of minorities engendered frustration and that frustration, in turn, led to the appearance of armed movements which threatened the very existence of the pluralistic State. In order to put an end to those internecine struggles within the human family, it was essential to promote greater respect for democratic principles through a process of example and education.

12. Mrs. SIKORA (Transnational Radical Party) said that, in the countries of the former communist bloc with a multi-ethnic structure, a metastasizing nationalism was undermining democratic values since democracy was reduced to a mere voting procedure which allowed the majority to eliminate or marginalize minorities. In those countries in transition, there was a conflict between two concepts of the State, namely the unitary and centralized State and the federalist decentralized State. The former Yugoslav Federation began to disintegrate when the Serbian President Milosevic sought to ensure the supremacy of the Serbian majority, with well-known consequences.

13. The case of the former Yugoslav Republic of Macedonia was also typical. In that country, in which one third of the population consisted of ethnic Albanians, the Albanian language was not recognized as an official language and the principal organs of the State were totally dominated by Macedonians. In fact, every means was used to marginalize the Albanians in the decision-making organs, particularly the Parliament where they held only one-sixth of the seats. The same applied in the social sphere in regard to the provision of communal facilities or access to education, culture and information.

14. The Transnational Radical Party fully supported the final recommendations of Mrs. Elizabeth Rehn, the Special Rapporteur, and requested the Commission on Human Rights to encourage the former Yugoslav Republic of Macedonia to respect the equal rights of all its citizens in both law and practice.

15. Mr. CHOEPHEL (Society for Threatened Peoples), being concerned with the deprivation of religious freedom from which Tibet had been suffering for a number of years, drew the Commission's attention in that regard to the case of the young Gedhun Chokyi Nyima, the eleventh Panchen Lama of Tibet whose whereabouts were unknown, and that of Chadrel Rinpoche and many monks and nuns who were detained in Tibet. He condemned the politicization of the Tibetan religious institutions and the control of their activities by the Chinese authorities, who were demanding written declarations from the Buddhist monks and nuns affirming that Tibet was part of China and denouncing His Holiness the Dalai Lama. He also referred to the campaign that the Chinese authorities had launched against the Dalai Lama, the restrictions that they had placed on the transmission of religious teachings and the fact that they had banned the major religious ceremonies. Finally, he condemned the expulsion, in 1996 and 1997, of more than 2,800 monks and nuns who had refused to be "re-educated". All those policies were threatening the very survival of the religious, cultural and national identity of the Tibetan people. The Society for

Threatened Peoples nevertheless hoped that the Chinese authorities would invite the Special Rapporteur on religious intolerance to pay a follow-up visit to China and Tibet.

16. It was because of the situation in Tibet and the lack of United Nations action thereon that six Tibetans between 25 and 70 years of age had begun a hunger strike at New Delhi on 10 March of the present year. On the twenty-first day of their hunger strike, they were appealing to the Commission on Human Rights to appoint a special rapporteur to investigate the human rights situation in Tibet.

17. Since no one, not even His Holiness the Dalai Lama, had been able to stop that hunger strike, the Society of Threatened Peoples feared greatly for the lives of those six Tibetans and, therefore, urged the Commission to respond to their legitimate request, as a matter of urgency, before it was too late.

18. Mr. QUIGLEY (Franciscans International) condemned the discrimination to which religious minorities were being subjected in many countries, particularly in Pakistan in spite of the fact that, in 1927, that country had promulgated legislation recognizing and protecting the sacrosanct nature of religious beliefs. It was President Zia who had subsequently added to the Pakistani Penal Code provisions concerning blasphemy which condemned any act which, rightly or wrongly, might be regarded as a sign of disrespect for the Qur'an. Those provisions were often applied in an arbitrary manner motivated by personal grudges.

19. Franciscans International had already reported the destruction of the Christian villages of Shantinagar and Khanewal on 5 and 6 February 1997 at the instigation of a small group of militant Muslims. Although the Pakistani Government had taken steps to remedy the situation, the results of the inquiry on those incidents had not yet been made public and there was still tension between Christians and Muslims in that area due to the fact that the authorities had not kept all their promises. Franciscans International called upon the Pakistani Government to publicize the report of the judicial authorities who conducted the inquiry and to prosecute the persons responsible for the destruction of those villages before the civil courts. His organization was also calling for the abrogation of all the discriminatory laws, particularly those relating to blasphemy (art. 295 (b) and (c) of the Pakistani Penal Code) as well as the abolition of the electoral system based on religion.

20. Franciscans International was also concerned at the discrimination and persecution to which the Muslim and Christian minorities were being subjected in India. The destruction of mosques and the assassination of numerous Muslims during the last few years were particularly disturbing. Catholic priests and nuns had also been subjected to numerous violations ranging from beatings to murder and the perpetrators of those acts had not been brought to justice.

21. Mrs. BASSAM (International Peace Bureau), speaking on agenda item 16, denounced the brutal repression to which the Mapuche minority was currently being subjected in Chile, as had happened in the worst years of the military

dictatorship. Having been dispossessed of their lands by the Spanish conquest, the Mapuche community should in theory, under the terms of Law No. 19253 of 1993 concerning the protection of the indigenous population, enjoy some fundamental rights, particularly the right to be consulted on all issues directly affecting its members. However, that law was not being applied and the situation of the Mapuche was currently characterized by the usurpation of their lands, discrimination and humiliation. The Chilean police, acting on the basis of the State Security Law and the Anti-Terrorist Law, had carried out totally unjustifiable operations in the Mapuche region where some inhabitants, including women and children, had been detained and threatened. One of the detainees had allegedly been held incommunicado for seven days, which was contrary to the law, and had suffered degrading treatment. Those operations had taken place following a clash between guards of the logging company Arauco S.A. and Mapuche families trying to halt the deforestation of land that had always belonged to them. Likewise, in violation of Law No. 19253, the Chilean State had decided to build new roads and dams without consulting the communities concerned. One example of this was the imminent construction of a series of hydroelectric power stations on the Bio-Bio river.

22. Mr. MBOMIO (North-South XXI), describing the situation in Sri Lanka, said that the Sri Lankan army had destroyed Hindu temples and Catholic and Protestant places of worship and had imprisoned Hindu and Christian priests. That information had been confirmed by the International Committee of the Red Cross (ICRC). In his view, those incidents highlighted the key role that militant Buddhism was playing in the conflict in Sri Lanka. On the other hand, on 25 January 1998, the Buddhist sanctuary known as the "Temple of the Tooth", which was highly venerated by those same militant Buddhists, had been the target of a bomb attack which was thought to have been carried out by members of the rebel Tamil army. That attack had been condemned by Amnesty International. The Sri Lankan communities affected by that racial intolerance were expressing massive support for equal treatment of all faiths, regardless of their origin, as stipulated in the principal international instruments and in the Universal Declaration of Human Rights. North-South XXI condemned the intolerance and discrimination to which communities were being subjected in Sri Lanka on grounds of their belief, as well as the violence that resulted therefrom. There was an urgent need for the parties involved in those conflicts to meet around a negotiating table with a view to a national reconciliation for which the Commission on Human Rights could help to lay the foundation.

23. Mr. ROSSI (International Association for Religious Freedom) welcomed the fact that, 50 years after the adoption of the Universal Declaration of Human Rights, the right to freedom of conscience and religion had been proclaimed in the constitutions of almost all the countries of the world and millions of men and women, who had previously been persecuted for their religious beliefs, could now enjoy that freedom. He highly appreciated the role that the Commission on Human Rights and the Special Rapporteur on religious intolerance had played in that regard.

24. Unfortunately, it could not be denied that there were still some States in which religious freedom was severely restricted and even some in which the situation in that field, far from having improved, had deteriorated. Note

should be taken of grave manifestations of intolerance in some religious circles, and particularly the increasingly threatening upsurge of political movements characterized by religious totalitarianism. In that connection, he referred to the ethnic cleansing campaign conducted in Bosnia and Herzegovina which had been viewed as a war between Christians and Muslims, the intolerance of the majority Orthodox Church in some Eastern European countries, the massacre of innocent men, women and children in Algeria because a religious extremist party had been prevented from turning that country into an Islamic State, Hindu nationalism in India, the ultra-Orthodox Jewish movement in Israel which had been behind the assassination of Prime Minister Yitzhak Rabin, and the Islamic regime in Iran which had outlawed the Baha'is. Moreover, it was noteworthy that, in Mauritania and the Sudan, the Penal Code prescribed the death penalty for Muslims who changed their religion, which was contrary to article 18 of the Universal Declaration of Human Rights. It was even more disturbing to note that those States affirmed that the international instruments should be changed in order to bring them into line with Islamic law. That was what the head of the Sudanese delegation had declared before the Human Rights Committee.

25. The international community should react vigorously against all the extremist movements which, in the name of an erroneous concept of religion, were seriously threatening the human rights system as well as world peace. The Commission on Human Rights should consider organizing a seminar of experts from all the major religions in order to clearly demonstrate that the authentic teachings of the major religions, stripped of any tradition that was not in conformity with the principles of the holy books, was fully in harmony with the rights and freedoms recognized in the Universal Declaration.

26. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship Among Peoples) noted the reluctance of States to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and, in particular, the lack of valid arguments to justify that reluctance, which was attributable to the desire for access to cheap labour to which the principle of equality in regard to economic and social rights did not apply and which was deprived of political status.

27. The problem of family reunification should also be addressed, because some of the more reactionary circles were beginning to regret the former pattern of immigration consisting solely of single persons to whom a few allowances were granted for the families that they had left behind, although those allowances were much less generous than those to which nationals were entitled. However, the demographic situation in the developed countries necessitated the absorption of foreign families since the active/non-active population ratio could place those countries in an extremely weak position within a few years. In future, immigrant children would be an active force in their host country provided that they received a scientific and technical education that enabled them to keep in step with modern social progress.

28. He felt that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was right to recommend the adoption of a form of (local or regional) citizenship for immigrant workers. The European Union had also been right to establish that principle for all nationals of its member countries. It should also be

applied to the nationals of all other countries. In conclusion, he hoped that the Commission would adopt a strong recommendation to the effect that all States should sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

29. Mr. BRAFF (General Conference of the Seventh-Day Adventists) said that article 18 of the Universal Declaration of Human Rights was disregarded in many countries and even called into question in some democracies, as had been emphasized in many reports, including that of Mr. Amor (E/CN.4/1997/91). He pointed out that the Church's independence from the State was one of the key principles of modern democracies. History showed what happened to freedoms when the State abandoned its duty. In such a case, instead of guaranteeing equality and freedom, it became the instrument of a religion or a Church. Since the same causes produced the same effects, it was now possible to measure the degree of freedom in States in which politics and religion were intermingled.

30. He noted with regret that, in some countries, religious minorities were still being equated with dangerous sects. Although a sect was usually a religious minority in the numerical sense of the term, it was not necessarily a dangerous minority. In his view, the publication, in some countries, of lists of sects which were often compiled without the assistance of experts or academics was a remarkably strange way to strengthen religious freedom and peace. It was not normal that a religious minority which respected the law should be marginalized or even persecuted by the State, that the simple fact of not belonging to the majority or traditional religion should turn a man or a woman into a second-class citizen, that public schools should brutally close their doors to children on grounds of their religious beliefs and that the Jehovah's Witnesses, for example, should be on the verge of gaining recognition in Cuba while they were still being harassed in several European countries. The State should protect its citizens from all kinds of abuses. If a religious, political or economic group posed a threat to freedom, public order, the family or health, the State had a duty to react and, in most democracies, the Penal Code allowed it to do so without the need to promulgate new anti-sectarian legislation.

31. In conclusion, he thanked the new democracies, particularly Poland and Hungary, which had not succumbed to religious and nationalist pressure, as well as Spain and Italy, which had often served as models. He encouraged all the Governments which were passing through that transition towards democracy to promulgate legislation that was in conformity with the international instruments of the United Nations and which recognized the independence of religious organizations, Churches and the State and guaranteed every individual's right to choose his religion and his way of thinking with due regard for others.

32. Mr. LEPATAN (Philippines) said that the phenomenon of migrant workers was not new although, at the present time, it had assumed an unprecedented magnitude due to the growth in the world population, the increasing disparities in income which were inducing large numbers of workers to seek their fortune in richer countries, the facility of travel and the emergence of organized groups that were profiting from migrant workers.

33. Being both a labour-exporting and a labour-importing country and one of the few States that had signed and ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Philippines welcomed the fact that the High Commissioner for Human Rights had approved the organization of a global campaign to promote the ratification and entry into force of that instrument. He hoped that the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance would give due attention to the discrimination and violence faced by migrant workers.

34. He suggested that the High Commissioner for Human Rights should consider carrying out a historical study of migratory movements and the economic, social and cultural contributions made by migrant workers throughout the world in order to promote better understanding and tolerance of migrant workers in host societies.

35. During the current session of the Commission, the Philippines would be presenting or co-sponsoring various draft resolutions designed to promote and protect the rights and dignity of migrant workers and members of their families. The first of those draft resolutions would advocate ratification of the relevant International Convention, while the second would refer to the need to renew the mandate of the Working Group of Intergovernmental Experts on the Human Rights of Migrants. His delegation hoped that the Working Group would give due attention to women migrant workers who, being female, were particularly vulnerable. In that regard, his delegation would be presenting a draft resolution on the violence to which those women were subjected, as well as a related draft resolution on the traffic in women and girls.

36. His delegation welcomed the commitment of intergovernmental and non-governmental organizations to promote and protect the rights and dignity of migrant workers. It hoped that their endeavours would also promote a better understanding of the contribution that migrant workers were making to economic and socio-cultural progress in both their host and home countries.

37. Mr. MAJDI (Morocco) said that, since the mid-1970s, immigrants had been accused of being the cause of all the ills afflicting their host societies which, consequently, found them costly, unassimilable and dishonest. Some politicians, motivated by these prejudices which were not based on any objective and carefully considered analysis, had made immigration a priority issue in their programme, thereby encouraging certain groups to increase their xenophobic acts of aggression against immigrants everywhere in Europe. That attitude seemed to have spread to some official sectors which, if not actually covering up, were at least turning a blind eye to those activities. In judicial proceedings, a presumption of malfeasance seemed to weigh heavily against the immigrant, who was required to furnish proof to the contrary. Those attitudes, which were sometimes racist and xenophobic, were backed by an increasingly severe, not to say discriminatory, arsenal of laws and regulations.

38. The Moroccan delegation felt that it was paradoxical, at the very least, to note, in the era of globalization in which economic liberalization and the free movement of goods and services were being demanded, that extraordinary efforts were still being made to build fortresses to prevent the movement of

persons. His delegation in no way contested the right of every State to define and apply its own migration policies and to make its sovereign decisions concerning border control. However, the manner in which a State treated foreigners in its territory was not a matter that solely concerned that State. The Universal Declaration of Human Rights and the relevant international instruments required States to guarantee to all persons living under their jurisdiction the fundamental rights enjoyed by the population as a whole. In that context, refoulement, arbitrary expulsion and the unjustified confiscation of travel documents, which had become current practice, could not be tolerated.

39. Morocco supported the renewal of the mandate of the Working Group of Intergovernmental Experts on the Human Rights of Migrants, the task of which was to gather information on the obstacles encountered from all the parties concerned in order to ensure the effective protection of those rights. His country hoped that the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights would encourage States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

40. Mr. ZOZULYA (Ukraine) said that Ukraine had always attached the utmost importance to the protection of linguistic, ethnic, and religious minorities from any form of discrimination or intolerance. The Government encouraged the establishment, among the various ethnic groups, of relations based on mutual tolerance and confidence.

41. In that connection, it was noteworthy that the revival of the Ukrainian culture and language, which had suffered greatly under the Soviet regime, was not taking place at the expense of the rights of persons belonging to any national minority or ethnic group. For example, measures were currently being taken to promote education in the minority languages and to preserve the cultural traditions of the minorities. The Ukrainian Government therefore rejected any attempt to exploit ethnic issues for political ends or to the detriment of the inter-ethnic harmony, stability and integrity of Ukraine.

42. The Ukrainian Government expected the rights of the 12 million ethnic Ukrainians living outside Ukraine to be protected in the same way. It was the country of citizenship or permanent residence that bore the primary responsibility for ensuring that the rights of minorities were respected in its territory. For its part, Ukraine was convinced, in the light of its experience, that cooperation among States would help to settle the problems of persons belonging to minorities and would prevent the mass migrations that could be caused by lack of respect for their rights.

43. With regard to migrant workers, the Ukrainian delegation strongly supported the recommendation of the Working Group of Intergovernmental Experts on the Human Rights of Migrants that the Commission should authorize the Group to meet twice annually for two sessions of five days each.

44. With regard to the rights of persons belonging to minorities, the Ukrainian Government was in favour of extending the mandate of the Sub-Commission's Working Group on Minorities and would continue to participate actively in its work, the effectiveness of which would be increased if the

working documents were prepared in advance, if the discussions were less politicized and if a larger number of observers from Governments, NGOs and independent experts participated therein.

45. The application of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities would be strengthened if the treaty-monitoring bodies and special rapporteurs of the United Nations played a more active role in solving the problems that arose within the framework of inter-ethnic and inter-State relations. In that regard, as several delegations had suggested, the international mechanisms assigned to control and monitor compliance with the provisions of the Declaration should be strengthened.

46. Mrs. GAER (United States of America) said that, in accordance with article 18 of the Universal Declaration of Human Rights, everyone had the right to freedom of thought, conscience and religion, as well as freedom to manifest his or her religion or belief in public or in private.

47. The United States, which had never known a religious war, was deeply attached to that freedom. Moreover, many of the early settlers had been escaping religious persecution in Europe. In the United States, the separation of Church and State was enshrined in the Constitution, thereby allowing all religions to flourish in a spirit of tolerance. In November 1996, the United States Administration had established an Advisory Committee on Religious Freedom Abroad, which comprised religious leaders representing all the major faiths and scholars who had dedicated their lives to the study of that issue. The Committee's task was to advise the Secretary of State on ways to promote and protect religious freedom worldwide. In that regard, it was noteworthy that the incidence of religious persecution increased whenever there was a deterioration in the political, economic and social climate. Such deterioration probably accounted for some of the anti-Semitism that had been observed in Central and Eastern Europe since the collapse of the Soviet Union. It was also a factor in the tension between Hindus and Muslims in India and between Sunni and Shi'a communities in Pakistan. The United States shared the opinion of the Secretary-General of the United Nations that the international community should denounce anti-Semitism in all its manifestations. In that connection, it should be noted that denial of the existence of the Holocaust was a form of anti-Semitism.

48. The United States could not remain indifferent to the tragic fate of the Christians and animists who were being persecuted by the Sudanese Government and forced to convert to Islam or be enslaved. It was essential to seek a speedy, just and durable settlement to the conflict that had been tearing that country apart for the last 15 years.

49. The persecution suffered by the Baha'is and Christians in Iran, by the Buddhists, Christians and Rohingya Muslims in Burma and by the followers of various religions in China, particularly in Tibet and Xinjiang, should also be condemned. It was unacceptable that the Chinese Government should continue to detain the young boy under 10 years of age who had been designated by the Dalai Lama as the Panchen Lama.

50. The United States also feared that, in Russia, the new law on religion might severely restrict the freedom of religious minorities. The United States shared the concerns of its Muslim American citizens over the growing intolerance in regard to Islam in some sectors of European society. On the other hand, her country would not tolerate any invocation of Islam or other religions to justify atrocious violations of human rights as was being done by the Armed Islamic Group in Algeria.

51. In her view, the Commission should consider the positive role that religious leaders could play in conflict resolution. She also called upon the Commission to continue its work on the basis of the important studies on religious freedom that had been prepared for it. Finally, she urged the High Commissioner for Human Rights to ensure the full integration of that issue in the programmes of her Office. In that regard, she called upon the special rapporteurs examining country situations to meet with leaders of religious communities and human rights organizations in those countries and to include information on religious freedom therein in their reports.

52. Mr. PACURETU (Observer for Romania) said that the Vienna Declaration, which stemmed directly from the Universal Declaration of Human Rights, reaffirmed the fundamental principle that States should assure the same protection for all citizens irrespective of their race, language, religion or origin. Governments and persons belonging to national minorities should make concerted efforts to preserve inter-ethnic peace.

53. The Romanian Government also believed that States had an obligation to ensure that all citizens participated in social progress and to protect the rights of persons belonging to national minorities, in accordance with the relevant international instruments and standards, particularly the instruments drawn up by the Council of Europe. The bilateral agreements concluded between a State in which a national minority was living and the State from which that minority came also helped to establish a climate of confidence and prevent tension.

54. In Romania, the Democratic Union of Hungarians, which represented the largest ethnic minority in the country, nominated its own candidates not only for posts within the Government but also for posts to be filled in the prefectures and sub-prefectures. Hundreds of mayors belonging to that party had been elected democratically.

55. Moreover, the Romanian Constitution stipulated that every national minority should have at least one representative in the Parliament. A Department for the Protection of National Minorities had recently been established to monitor the application of the legislation concerning minorities. All those mechanisms and institutions bore witness to the importance that Romania attached to protection of the rights of national minorities and their participation in all aspects of social life.

56. Mr. ZERVAN (Observer for Slovakia) said that the Slovak Republic was firmly committed to protect the fundamental rights and freedoms of all its citizens, including the specific rights of persons belonging to national minorities. Accordingly, Slovakia had become a party to all the principal international instruments concerning human rights and the rights of

minorities, had adopted legislative provisions and taken practical measures to ensure the effective exercise of those rights and had incorporated the principles set forth in the international instruments in the bilateral treaties that it had concluded with its neighbours.

57. The Slovak Government supported the work of the Working Group on Minorities and approved its proposal to submit the Hague Recommendations regarding the education rights of national minorities for consideration by Governments with a view to making them universally applicable.

58. Slovakia was also one of the first States to ratify the Framework Convention for the Protection of National Minorities, which had been drawn up by the Council of Europe, and was currently preparing its first report on the implementation of that convention.

59. At the invitation of the Slovak Government, representatives and experts from the European Commission, the Council of Europe and the Office of the High Commissioner for National Minorities of OSCE had visited Bratislava on 9 and 10 March 1998 to help Slovakia to evaluate its domestic legislation concerning the use of minority languages. A second meeting was scheduled for April 1998.

60. In conclusion, Slovakia was firmly convinced that protection of the rights of persons belonging to national minorities contributed significantly to the establishment of cultural pluralism at the national level and to the enrichment of mankind's cultural heritage.

61. Mr. HASSAINE (Observer for Algeria) said that, by proclaiming the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief in 1981, the General Assembly of the United Nations intended to reinstate religion in its true place in human society by allowing everyone to live his spirituality freely and in harmony with others. To that end, a culture of tolerance and non-discrimination should be promoted within the framework of the Decade for Human Rights Education.

62. Religious wars had constituted the most acute form of religious intolerance that mankind had known. Today, the world was witnessing the upsurge of terrorism, a new form of intolerance directed against entire peoples. Small groups believing themselves to be vested with a divine mission were attempting to impose their fallacious and anachronistic interpretation of sacred texts and were engaging in blind and barbaric terrorism. In that regard, it was noteworthy that religious extremism had been largely sustained, supported and manipulated by some parties within the framework of the East-West confrontation.

63. States, the United Nations and civilian society should clearly and unequivocally condemn the religious extremism that was threatening not only democracy but also stability and peace throughout the world. The Special Rapporteur on religious intolerance had rightly recommended certain initiatives, particularly communications and in situ visits, on the issue of

religious extremism and the definition and adoption by the international community of a minimum of common rules and principles of conduct and behaviour in regard to religious extremism.

64. Mr. TANDAR (Observer for Afghanistan) said that intolerance was alien to Islam, that, according to the Qur'an, life was sacrosanct, that education was a religious obligation for every male and female Muslim and that extremism was incompatible with Islam, which was a tolerant religion that rallied men and women of all colours, all languages, all races and all continents around a common aim.

65. The Taliban were distorting Islam. Eminent Muslim scholars and highly reputed Islamic teaching centres throughout the world condemned their practices: public stoning, closure of teaching establishments for women and young girls, refusal to permit women to wash themselves or to work, and slaughter of persons sentenced to death before 35,000 spectators.

66. Some silences, some attitudes and some sympathetic remarks in regard to the Taliban gave reason to believe that they were the instruments of a policy and a game that were under way in the region. To those who kept silent in the face of the distress of a people and who believed that they could come to terms with barbarity at the end of the twentieth century, it might be useful to point out that one Munich was sufficient.

67. The delegation of the Islamic State of Afghanistan called upon the international community as a whole and the Muslim countries in particular to unreservedly condemn the Taliban in Afghanistan and the terrorists in Algeria for insulting Islam.

68. Mr. GETAHUN (Observer for Ethiopia), speaking first of all on agenda item 11, said that the Ethiopian delegation shared the concern of previous speakers at the alarming increase in violations of the fundamental rights of migrants, regardless of whether they took the form of racist and xenophobic acts of aggression by individuals or isolated groups or measures such as prolonged administrative detention, denial of channels of appeal against administrative decisions, summary expulsions or deportations in humiliating conditions. Those problems required urgent and concerted action. In that regard, the Ethiopian delegation welcomed the report of the Working Group of Intergovernmental Experts on the Human Rights of Migrants (E/CN.4/1998/76). The numerous replies to the questionnaire prepared by the Working Group had enabled it to analyse the various problems encountered by migrants.

69. While highly appreciating the efficient manner in which the Working Group had obtained information by its own means, the Ethiopian delegation shared the view expressed by several participants who, as indicated in paragraph 80 of the report, felt that the Working Group's activities should not duplicate those of competent intergovernmental organizations, specialized agencies or treaty-monitoring bodies. However, the Working Group should utilize the data already gathered by those institutions. The Ethiopian delegation also endorsed the proposal made in paragraph 94 of the report to the effect that a permanent United Nations body should serve as a clearing house for information concerning the full protection of the rights of migrants.

70. With regard to agenda item 16, the Ethiopian delegation welcomed the report (E/CN.4/Sub.2/1997/18) of the Sub-Commission's Working Group on Minorities, and particularly the recommendation made in paragraph 108 concerning the preparation of a manual on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, a task which the Working Group was best qualified to undertake. His delegation also endorsed the recommendation made in paragraph 109, concerning the establishment of a database on good practices and another on national, regional and international recourse mechanisms. In that regard also, the Working Group should clearly identify the practices that were designated as "good". The Ethiopian delegation likewise emphasized the importance of the recommendation made in paragraph 112 of the report to the effect that the Sub-Commission should call upon each of its committees to include in their reporting guidelines for States parties a request for information concerning the minority-related rights relevant to the treaty in question and to pay particular attention to the question of the status of minorities during their consideration of the reports of States parties. Finally, paragraph 119 contained another important recommendation concerning the need for the United Nations, and particularly UNICEF, UNESCO and UNDP, to considerably increase the resources allocated to multicultural and intercultural education projects.

71. In spite of the increasing awareness of the problems encountered by minorities, discrimination, exclusion and conflicts had persisted. Since the Working Group had been established to consider those issues and to seek solutions thereto, it should be allowed to hold one session of five working days every year, which would be devoted to the consideration of issues such as the cultural autonomy of minorities, their representation in public institutions and the promotion of their rights. Through the Sub-Commission, the Working Group should also contribute to the preparation for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance by undertaking studies on the issues covered by its mandate.

72. Ethiopia had more than 70 ethno-linguistic groups. The Ethiopian Constitution of 1994 stipulated that every nation, nationality and people had the right to use its own language, to promote its own culture, to preserve its history and to enjoy a full measure of self-rule. Those constitutional guarantees were fully respected in Ethiopia.

73. Mr. COX (Baptist World Alliance) said that the Alliance was a fellowship of 191 Baptist organizations representing a total of 100 million persons throughout the world. It had a Human Rights Commission, which met annually and sought to solve the problems brought to its attention by the various affiliated organizations. Every year, the Commission sponsored a mission to a region in which it believed that the fundamental rights of the population, regardless of whether they belonged to the Baptist community, were being flouted. The members of those missions always endeavoured to meet the United Nations representatives in the country concerned.

74. At the present time, the Baptist World Alliance was particularly concerned at the fact that several States Members of the United Nations had not yet recognized the right of all their population to religious freedom. Since its establishment at the end of the sixteenth century, the Baptists

Movement had advocated the separation of Church and State and freedom of worship for every individual. For four centuries, the Baptists had sought to promote religious freedom for all, not just for Christians and certainly not just for Baptists. In fact, they were convinced that religious freedom, as outlined in the Universal Declaration of Human Rights, was every individual's inalienable right which should not be restricted or denied.

75. The Baptist World Alliance was alarmed at the upsurge in persecution throughout the world and condemned all acts of violence committed in the name of religion. It was also concerned at the increase in discrimination practised by States. Governments should be reminded that they had an obligation to ensure that the rule of law was respected. The Baptist World Alliance appealed to the Commission to do everything within its power to combat all forms of injustice, including that which consisted in preventing believers from openly practising their faith.

76. Mrs. CONNAUGHTON ESPINO (Women's International League for Peace and Freedom) said that migration was a complex phenomenon which should be analysed by considering the causes and studying the obstacles that prevented immigrants from fully enjoying their fundamental rights. At the present time, migrations were to a large extent linked to globalization, the role of transnational corporations and economic liberalization policies. For example, many farmers who had been dispossessed of their land had no choice but to emigrate in order to support their families. Both the countries of origin and the host countries had responsibilities in that regard and should consider the consequences of certain economic policies. The Women's International League for Peace and Freedom urged the countries of origin to ensure that the right of their citizens to remain in their country was respected by protecting their land rights and ensuring that foreign companies observed the standards set by the International Labour Organization. It called upon the host countries to recognize their responsibilities in the economic liberalization process and to no longer allow their national companies to flout ILO standards in their facilities abroad. Moreover, since immigrants were often victims of racism and xenophobia, the host countries should conduct information campaigns within the framework of the Third Decade to Combat Racism and Racial Discrimination and the issue of migration should be high on the agenda of the World Conference to Combat Racism. The League also appealed to all States to rapidly ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which had not yet been signed by any so-called "developed" country.

77. Female migration was a matter of particular concern since more than half of all migrants were women, who experienced the dual discrimination of racism and sexism. Clandestine female workers, regardless of whether they had emigrated of their own free will or were the victims of trafficking, were particularly vulnerable to economic, psychological and sexual exploitation. In that regard, the League welcomed the Commission's resolution 1997/13 concerning violence against women migrant workers, especially the provisions concerning measures to punish the perpetrators of that violence and assist its victims. The League was in favour of a renewal of the mandate of the Working Group of Intergovernmental Experts on the Human Rights of Migrants, which it

urged to consider the situation of women migrants in all its work and to pay particular attention to the issue of undocumented migrants, without forgetting the need to combat racism and xenophobia.

78. Mr. PARADISO (Asian Buddhists' Conference for Peace) referred to the fate of the Mohajirs in Pakistan who, although they had their own distinct culture, language and values and constituted the fifth largest nationality in Pakistan, had never been recognized as full Pakistani citizens and were subjected to systematic tacit or official discrimination in all spheres of life.

79. The Asian Buddhists' Conference for Peace urged the Commission and member States to ensure that a political solution was sought for the plight of the Mohajirs living in urban centres of Sindh with a view to securing effective respect for their rights as recognized in the Pakistani Constitution. The present coalition between the ruling Muslim League and the Mohajir Qaumi Movement provided a suitable opportunity to do so. The Government should demonstrate its sincerity and not use the coalition as a tool to remain in power. Above all, it should put an end to the violations that were being committed against Mohajir workers in general and those of the MQM in particular.

80. The Asian Buddhists' Conference for Peace also condemned the suicide attack against one of the holiest Buddhist shrines, the Temple of the Tooth at Kandy in Sri Lanka. The destruction of that site should be condemned not only because of the scores of people who had been killed or injured but also because it constituted an attack on the universal conscience.

Statements made in exercise of the right of reply.

81. Mr. HUU HAI (Observer for Viet Nam), referring to a statement by the non-governmental organization Pax Romana concerning his country, said that a group of persons who were obstinately closing their eyes to reality and to the development of Viet Nam, tried to mislead the Commission every year. Their statements, which were neither objective nor constructive, hardly reflected a genuine concern for human rights. The Vietnamese delegation, which had frequently had to refute such allegations, deemed it appropriate to mention the view expressed by the Asian Group Coordinator on item 3 that the secretariat should examine statements of this type in advance with a view to preventing the participation of unauthorized observers and the repetition of obsolete statements.

82. Mr. IDRIS (Sudan), referring to the statement by the representative of the International Association for Religious Freedom on agenda item 18, made the following comments:

83. Although changing one's religion was indeed designated as a criminal offence in the Sudanese Penal Code of 1983, it was no longer so designated in the Code that the present Government had promulgated in 1991. However, the new Code prescribed penalties for manifestations that disrupted public order, in accordance with a universally recognized principle.

84. Moreover, the Sudanese delegation categorically refuted the allegation that the head of the Sudanese delegation had declared before the Human Rights Committee that international law should be adapted to national legislation. On that occasion, the Sudanese representative had actually said that the Sudan, being a signatory of the Vienna Convention on the Law of Treaties, was bound to respect the international instruments to which it was a party. In addition, article 18, paragraph 3, of the International Covenant on Civil and Political Rights stipulated that States had the right to impose such limitations as were prescribed by law and were necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The Sudan had not defaulted on its obligations and the representative of the International Association for Religious Freedom was, to say the least, ill-informed of the situation in that country.

85. The allegations made by the representative of the United States of America, to the effect that the non-Muslim population of the southern part of the country was being persecuted, were unjust and unfounded. In fact, if the Christians and animists in the south were being forcibly converted and enslaved, as the United States delegation alleged, 2 million southerners would not have fled to the north from the war zone.

The meeting rose at 5.45 p.m.

UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/1998/SR.24
2 April 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 31 March 1998, at 10 a.m.

Chairman: Mr. SELEBI (South Africa)

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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION

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GE.98-11505 (E)

The meeting was called to order at 10 a.m.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 11) (continued) (E/CN.4/1998/74 and Add.1, 75 and 76)

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 16) (continued) (E/CN.4/1998/90 and 91; E/CN.4/1998/NGO/14 and 36; E/CN.4/Sub.2/1997/18; A/52/498)

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 18) (continued) (E/CN.4/1998/6 and Add.1-2 and Corr.1, 115 and 121)

1. Mr. RAM (Pakistan) said it was clear from the report of the Special Rapporteur on religious intolerance (E/CN.4/1998/6 and Add.1-2, and Corr.1) that religious intolerance and prejudice was a disease that plagued all societies. His own Government was working hard to establish a tolerant society which provided security to all its citizens regardless of their religious beliefs. Its task was made difficult, however, by the mischief of external agencies. Pakistan had become the target of foreign-funded terrorist activities, and had lost more than 600 lives to such terrorists, who had no respect for places of worship. His Government would not tolerate those activities on its soil, and would vigorously counter the threat to the safety and security of all its people.

2. The Special Rapporteur had referred to the treatment of minorities in Pakistan, particularly Christians. As a member of a minority community himself, he was able to state that the minorities, which were a vibrant thread in the fabric of Pakistani society, were not subjected to any kind of systematic discrimination. Members of minority communities were represented in all walks of life. He described as a tragic aberration an incident at Shantinagar where a small group had instigated a chain of events that led to the destruction of the property of members of the Christian community there; the Prime Minister of Pakistan had himself visited Shantinagar and instructed that those implicated be arrested immediately and those affected compensated. So far a sum equivalent to US$ 735,000 had been paid out to them, and the repair of the churches and homes was almost complete.

3. The Constitution of Pakistan enjoined that all minorities should live in complete peace and harmony and enjoy full religious freedom. They had recourse to any court of law if they felt that their rights had in any way been affected. The Prime Minister chaired the Federal Advisory Council on Minorities, and there was also a National Commission for Minorities, which considered laws, instructions and practices reported as being discriminatory, recommended to the Government steps to ensure fuller participation by members of minorities in all aspects of national life, ensured their association with their religious and cultural festivals and celebrations, looked into grievances and representations and, where necessary, made appropriate recommendations to the Government, and ensured that places of worship of minority communities were preserved and kept in a functional condition. Minority representation was ensured at all levels of administration through

minority committees. All possible efforts were made to prevent the laws of Pakistan concerning blasphemy against the Prophet or Islam from being misused.

4. His delegation regarded favourably the Special Rapporteur's recommendation that his title be changed to "Special Rapporteur on freedom of religion and belief", since that did not imply any change in the mandate. It also supported the recommended initiatives on sensitive priority issues, especially religious extremism, referred to in paragraph 110 of the report (E/CN.4/1998/6). His Government was deeply concerned at the growing trend towards religious extremism, particularly in countries where such extremist movements were voted into power and became capable of forming the Government. Such situations required the constant attention of the international community.

5. Mr. GARCIA GONZALEZ (El Salvador), having thanked the intergovernmental working group of experts on the human rights of migrants for its report (E/CN.4/1998/76), said that the phenomenon of migration had acquired greater importance for his country in recent decades. Of a total population of five and a half million Salvadorans, one and a half million were living abroad. The qualitative importance of migration lay in the assimilation of new values and cultural patterns by Salvadorans residing abroad, together with the emigrants' remittances which strengthened the Salvadoran economy.

6. However Salvadoran migrants, like all others, were exposed to what the intergovernmental working group of experts called "structural vulnerability": they were the victims of violations of human and labour rights, and were the more vulnerable the further away they were from their country of origin, largely as a result of ignorance and prejudice manifested in false doctrines of racial superiority. While every State had a sovereign right to determine its policies regarding migration, such policies had to be consistent with the principle of respecting the human rights of migrants, regardless of whether they were legal or illegal, especially in the case of vulnerable groups such as women, children and the elderly. All the relevant human rights instruments had to be respected in the case of migrants also.

7. His Government had begun the internal-consultation process needed for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and supported the recommendation by the intergovernmental working group of experts that it should be authorized to meet twice a year for sessions of five days each.

8. Mr. DESSER (Austria) said that the rights of persons belonging to minorities to enjoy their own culture, use their own language and practise and profess their own religion had to be guaranteed. While there were a number of international legal instruments to protect and promote such rights, further measures were clearly necessary since many conflicts bore the hallmark of unresolved minority issues which might threaten the stability and peace of entire regions. It was in the interest of the international community, therefore, to urge Governments to take appropriate action to defuse potential conflicts well in advance and to respect international standards aimed at the protection of the existence and identity of persons belonging to minorities.

Failure to comply with such standards remained a serious threat to peace and stability in many parts of the world but, in a number of States, minorities were still regarded as a potential threat to unity and stability.

9. Many Governments had adopted positive legislation however, which took into account the interests and needs of their ethnic, religious or linguistic minorities. The rights of national minorities in Austria were covered by the Ethnic Group Act of 1976 and the cultural, social and economic interests of specific ethnic groups were ensured and promoted by Advisory Councils set up by the Government for the Croat, Czech, Hungarian, Slovene, Slovak and Roma minorities. The Council of Europe Framework Convention for the Protection of National Minorities, which Austria had ratified and which had entered into force on 1 February 1998, was the first legally binding multilateral instrument devoted to the protection of national minorities and included a special monitoring mechanism. The protection of national minorities was also an objective of the Organization for Security and Cooperation in Europe (OSCE) and of the Central European Initiative.

10. The experience of such regional activities could usefully contribute to the work being done at the global level in the United Nations, and his delegation urged the High Commissioner for Human Rights and the Working Group on Minorities to establish closer contacts with the regional organizations concerned.

11. The Working Group on Minorities had become an important forum for constructive discussion, with active contributions from representatives of Governments, intergovernmental and non-governmental organizations (NGOs) and individual experts. In view of the valuable work it had already done and the many tasks that lay ahead, it should continue to meet annually in order to implement its mandate still further.

12. Mr. ISLAM (Bangladesh) said that his Government had recently taken steps to resolve a long-standing problem involving the ethnic tribal minority in its south-eastern hill districts. It had signed a peace agreement with the hill tribes on 2 December 1997 which was aimed at resolving peacefully two decades of insurgency and unrest.

13. The agreement provided for upholding the political, economic and socio-cultural interests of the hill tribes within the jurisdiction of the Bangladesh Constitution. It recognized the hill districts as constituting an area to be administered by a Regional Council whose chairman would be elected from among the tribal people. The Council's functions would include coordinating and supervising the development activities of the hill tracts councils as well as local government institutions, the administration of law and the dispensing of customary justice. No public land in the region would be leased out, purchased, sold or transferred without the Council's permission, with the exception of reserve forests, recorded Government lands etc. A land commission was being formed to resolve all cases of land disputes.

14. Under the provisions of the agreement, the hill tribes had surrendered their arms and ammunition to the Government, and life had begun to return to normal. Refugees had begun to return from the adjacent Indian State of

Tripura, and his Government of Bangladesh was providing incentives and a rehabilitation package to them and to those persons who had been granted an amnesty upon surrendering their arms.

15. Ms. SONAM (China), having expressed her support for the Working Group on Minorities, said that individual States should adopt measures for the promotion and protection of the rights of minorities that were suited to their own national conditions, but at the same time the international community should exchange experience that had been acquired.

16. China was a unified, multi-ethnic country, 108 million of whose people belonged to 55 minority ethnic groups that constituted some 8.9 per cent of the population. Her Government had always attached importance to the protection of all the legitimate rights of the ethnic minorities. Its ethnic policy was one of safeguarding and promoting equality, unity and mutual assistance, practising a system of regional national autonomy and working towards the common prosperity of all ethnic groups.

17. The ethnic minorities in China enjoyed all the rights set down in the Constitution and law together with some special rights accorded them by law. Some 14.36 per cent of the deputies to the Ninth National People's Congress were from the ethnic minorities, and that was higher than their proportion of the population as a whole. Even the smallest ethnic groups were represented in the National People's Congress. At the regional and local levels, the director or deputy director of the standing committee of the people's congress of an autonomous region, the chairman of a regional autonomous Government and the head of the administration of an autonomous prefecture or county had to be citizens of the ethnic minority that exercised self-government.

18. Chinese law stipulated that all ethnic groups were entitled to use and develop their own spoken and written languages, and had the right to use their own languages in legal proceedings on an equal basis with the Han language. The Government had helped 10 ethnic minorities to create their own script, and central and regional specialized publishing houses and news agencies had been established to publish in minority languages.

19. The Central Government extended financial and material support to minority autonomous regions for promoting local economic and social development, and had set the regions inhabited by ethnic minorities as its main targets for the alleviation of poverty. To speed up the economic development of the Tibetan Autonomous Region, the Central Government and various provinces and municipalities had provided assistance in a number of forms; such assistance projects had played a very important role in accelerating the growth of the Tibetan economy and promoting its ethnic unity.

20. Mr. KUETH (Sudan) said he had been a Christian priest for many years and thus had the credentials to provide information about religious freedom in his country, the Sudan. He said it was not fair for an NGO - Christian Solidarity International - to portray the Government of his country as the National Islamic Front Government, because the Christian population had its fair share in the Government. The Deputy Vice-President, an Assistant to the President and the Deputy Speaker of the National Assembly were all Christians, as were

many ministers at federal and State levels. Christians occupied many senior posts in the Ministry for Foreign Affairs, the Ministry of Justice, the judiciary, the armed forces and other government departments.

21. The Sudan Peace Agreement of 21 April 1997 was a landmark in the enjoyment of religious freedom according to which citizenship was the basis for rights and duties, irrespective of religious and ethnic affiliation. The right to self-determination had been guaranteed to all southern Sudanese, particularly the Christians, who were enjoying their fair share of power, wealth and religious freedom for the first time in the country's history.

22. Christian Solidarity International had depicted the Christian population in Sudan as being persecuted, a statement that would do the Christians in the Sudan no good since it would incite religious hatred and confrontation. It had asserted that the Government was demolishing churches and church-related institutions, yet in Khartoum alone more than 260 churches and church-related institutions were working in the field of education, health and social services. There had been very few cases of demolition, all of them in the context of urban planning after alternative sites had been provided, and on the same basis. Mosques had also been demolished.

23. Any serious allegations regarding religious freedom had been objectively verified by Christians from outside the country. A Presbyterian delegation from Belfast, that had visited the country in 1998, had proved the allegations to be untrue. The Government of Sudan had also received visits by the Pope, the Archbishop of Canterbury and the United Nations Special Rapporteur on religious intolerance.

24. He appealed to Christian Solidarity International to allow the Christians in the Sudan to live in peace with the other religious and ethnic communities there, to stop manipulating them for political purposes, sowing the seeds of hatred and religious intolerance and to abandon its unjustified animosity against the Government of the Sudan.

25. Mr. SCHATZER (Observer for the International Organization for Migration (IOM)), said that the long-term goal of IOM programme activities was to ensure that the principles and guidelines of international law were adopted and followed by migration authorities and border officials and incorporated into national laws, the intermediate goal being to ensure better cooperation in migration management with a view to achieving coordinated and balanced practices. IOM had cooperated with the working group of intergovernmental experts on the human rights of migrants and supported the proposal to extend the working group's mandate as the situation with regard to the human rights of migrants was still far from satisfactory and required further attention and action.

26. His Organization welcomed the recent increase in United Nations activities in the field of migrants' rights and noted with satisfaction the efforts being made to seek more extensive ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

27. In recent years, his Organization had become particularly concerned about the problem of irregular migration and trafficking in migrants, practices often associated with multiple forms of human rights abuses. Efforts to control such trafficking involved a complex set of activities, ranging from preventive measures to law enforcement to remedial and rehabilitation activities for the victims. As with much other migration-related work, inputs and cooperation by sending, transit and receiving countries were essential.

28. Mrs. GWANMESIA (Observer for Cameroon) said that the population of her country consisted of 243 ethnic groups, none of which was numerically predominant although some were economically more advanced than others. Owing to its colonial past, Cameroon was divided into a French-speaking and an English-speaking part, the former accounting for over two thirds of the total population of 13 million. Differences in the political, administrative and judicial systems of the two parts of the country had created difficulties in the early stages of independence, and human rights had been slow to develop.

29. The change in leadership which had taken place in November 1982 had marked a turning point in the relationship between the peoples of the two linguistic cultures, with marginalization in appointments to top positions in the State structure yielding to principles of regional balance and equitable distribution. The new Constitution of 18 January 1996 contained adequate safeguards for the protection of minorities and proclaimed the equality of the English and French languages. The provisions of a recent presidential order had further consolidated bilingualism as a national culture. The time was not far off when language would cease to be an indicator of minority or majority status but, rather, would become a feature of national integration.

30. The heritage of the two judicial systems - common law and civil law - was also being preserved. A Code of Criminal Procedure, already drafted and soon to be promulgated, drew upon both systems but placed the emphasis on guaranteeing fairness, equity and the rights of the defence. The coming into force of the new Code would represent a further step towards the elimination of minority consciousness in the country. Furthermore, under the new Constitution, power had been decentralized and vested in regional administrations and councils, the regions being endowed with limited autonomy.

31. Mr. BAUMANIS (Observer for Latvia) said that the situation of national minorities in a country depended largely on the level of democracy it had attained. Minorities were the first to suffer from totalitarian regimes, which tended to entail either forced resettlement or the replacement of the minority's identity by an artificial one, supposedly common to all. Latvia was a multi-ethnic country which, since its independence, had been free from ethnic cleansing, racially motivated violence or ethnic disputes. His Government considered democracy to be the only way to achieve the peaceful and harmonious coexistence of all ethnic groups.

32. The National Human Rights Office, to which the Russian representative had referred in his statement, was an independent institution which issued opinions on the Government's work in the field of human rights and as information concerning the compliance of Latvian legislation with

international law. As an alternative process for settling disputes, the Office provided a rapid, inexpensive and effective remedy for human rights violations.

33. Concern had been expressed in the Commission about the situation of ethnic Russians residing in Latvia who were not Latvian citizens. In that connection, he wished to state that obtaining Latvian citizenship did not depend on ethnic origin. Almost 40 per cent of the Russians residing in Latvia were citizens of the Republic. As for the others, it was his Government's understanding that there had to be a genuine link between the citizen and his country and that the link implied certain rights and duties, including the defence of the country. That was, perhaps, the reason why persons eligible to apply for Latvian citizenship were refraining from doing so.

34. An extensive sociological survey had been conducted over the past two years in cooperation with the OSCE mission in Latvia, the Council of Europe and the Soros Foundation to develop principles and a programme of action for social integration in Latvia. The conclusions would be made public in the summer of 1998. His Government was grateful for the international assistance thus provided.

35. The fact that the rights and freedoms of national minorities in Latvia were not restricted by ethnic or any other criteria was reflected in the European Commission's opinion to the effect that Latvia presented the characteristics of a democracy with stable institutions, guaranteeing the rule of law, human rights and respect for and protection of minorities. His Government had implemented most of the recommendations made by the OSCE High Commissioner on National Minorities. He was not aware of any recommendations having been made by Mr. van den Broek, as asserted by the Russian delegation, and would appreciate clarification on the point. Since it would welcome a constructive dialogue based on respect rather than tendentious allegations that did nothing to reduce the fears that many Latvians might still have regarding their eastern neighbour.

36. Mrs. MATLARY (Observer for Norway) said that the freedom to worship corresponded to a fundamental spiritual need of the human being and, for that reason, could be said to come before other human rights. Without freedom to worship there could be no real political freedom or freedom of thought and conscience. Religious freedom thus fell in the same category as other basic rights relating to the protection of the integrity of human life, and in particular the right not to be subjected to torture or inhuman or degrading treatment, the prohibition of slavery, and the right to life.

37. Given the great urgency and, at the same time, the great complexity of the issue of promoting and defending religious liberty, the question arose as to how the international community could best deal with that issue on the threshold of the twenty-first century. Her own Government - a coalition of the Christian-Democratic, Left and Centre Parties - doubted the usefulness of drafting an additional legally binding instrument, although it did see a need for legal clarification of some of the questions arising from the different

wordings of the various texts already in existence. In view of the urgency of the matter, however, it considered that other measures should be given priority.

38. Leaders of religions or beliefs, Governments, academic institutions and human rights organizations should work together to develop a plan of action in support of article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Conference on Freedom of Religion or Belief, to be held at Oslo from 11 to 15 August 1998, would endeavour to develop such a plan of action. The Conference - of which her Government was the main sponsor - would be attended by about 100 international experts and religious leaders, including, of course, the Special Rapporteur, Mr. Amor, and would explore different ways of expanding and consolidating universal support for the basic human right of religious freedom.

39. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that, as the recent tragic events in Bosnia, Rwanda and Burundi had shown, intolerance increased the chances of war and human rights violations of all kinds, while tolerance was the cornerstone of the protection of human rights. Mankind seemed, however, to be growing tired of hostility and eager to explore new avenues for understanding and cooperation, and that was a promising development. His Government strongly supported the ideal of a genuine dialogue among religions, cultures and civilizations which, in addition to promoting respect for diversity, would encourage tolerance at both the national and international levels and thus contribute to the gradual realization of a global civil society.

40. Mr. EFTICHIOU (Observer for Cyprus), having expressed himself in favour of extending the mandate of the Special Rapporteur on religious intolerance, said that particular consideration should be given to cases of intolerance and discrimination resulting from conscious and systematic government policies. His own country, invaded by Turkey in 1974 and still occupied by Turkish forces, was, unfortunately, a case in point. Turkish aggression was directed not only against the territorial integrity of Cyprus and its people but also against their beliefs and their cultural heritage. The systematic plundering and destruction of religious objects in Cyprus could no longer be attributed to irresponsible individuals.

41. Notwithstanding the view expressed by the Secretary-General in his report of 8 December 1997 (S/1997/962) that the living conditions of Greek Cypriots and Maronites in the area occupied by Turkey had changed little since his previous report, the situation had in fact changed - for the worse. Further restrictions had been imposed on the movements of such persons, obliging them to obtain so-called exit and re-entry visas for visits to Government-controlled areas of the Republic and effectively prohibiting visits by Greek Cypriots from the Government-controlled areas to places of worship in the occupied part. The situation was so serious as to warrant a determined reaction on the part of the international community.

42. Mr. NAVIKAS (Observer for Lithuania) described the steps taken in his country towards the full implementation of the freedom of religion or belief. In particular, he referred to the relevant articles of the Constitution

adopted in October 1992, whose language was taken almost directly from the corresponding articles of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to the Religious Communities and Associations Act, adopted in 1995, which recognized the existence of nine traditional churches and religious communities in Lithuania and emphasized the country's historic tradition of religious tolerance. The nine churches listed in the Act covered the religions practised by almost all the national minorities in Lithuania, but other religious communities and associations could also apply for registration, provided their activities did not violate human rights and freedoms or public order and their teachings and rituals did not run counter to public morals or the law. Those provisions, too, were consistent with article 1, paragraph 3 of the Declaration.

43. Ms. GRIMA (African Association of Education for Development) drew attention to the situation of women from Africa who had gone to Saudi Arabia to work as housekeepers, only to end up in the hands of abusers. Many had committed suicide and others had died of unknown causes or simply disappeared.

44. In response to the assertions by the observer for Ethiopia the previous day, she said that religious leaders, both Islamic and Christian, were still in jail in that country. Believers had been shot dead by the police on what both confessions considered holy ground. The observer's assertion that the peoples of his country were protected by constitutional guarantees was also far from reality. A minority ethnic group that had come to power by force of arms seven years earlier still dominated the country, restricting participation at all levels by fostering a divisive communalism. Civil servants had been replaced and appointed on ethnic grounds. Intolerance and humiliation had reappeared, bringing with them armed conflict.

45. The case of the Afar, who lived in three different countries and suffered repression from various Governments, was a classic example of how minorities were treated in the Horn of Africa. Members of the Afar opposition from Djibouti had taken refuge in Ethiopia, where 25 people, including a visiting pregnant woman, had been imprisoned without any explanation, moved from one prison to another and finally returned to Djibouti. The Ethiopian authorities had acted in that way to prevent them from attending a United Nations meeting on indigenous peoples. The pregnant woman had been freed after three months' imprisonment and had just rejoined her children in France. The men were still in custody, even though some of them needed urgent medical care.

46. Mr. GENIUSAS (International Federation of Free Journalists) said that his organization was concerned at the constant violations of the human rights of minorities and vulnerable groups, including native peoples oppressed or threatened by dominant foreign powers. Abuses included the repression of the native Albanians of Kosovo; the unremitting genocide of the Tibetans, the Kashmiris, the East Timorese, the Kurds and the Tutsis; the desperate homelessness of the Crimean Tatars; and the loss of the cultural identity of the Finno-Ugric peoples.

47. Since the restoration of the sovereignty of Latvia and Estonia in 1991, the Russian Federation had been accusing the Governments of those countries of

discriminating against Russian residents and of imposing excessive citizenship requirements. Those requirements, however, were for five years' legal residence, a knowledge of the national language, acquaintance with the Constitution and an oath of allegiance: no more than was required, for instance, by the United States. The Russian Federation was engaged in an unrelenting campaign of disinformation and was exerting constant pressure on the Governments of those countries to change their citizenship laws, even though Russians in the Baltic countries enjoyed more rights than their Baltic counterparts in the Russian Federation. Human rights abuses had been found by international organizations in the Russian Federation but not in the Baltic States.

48. Ms. ALI (Afro-Asian People's Solidarity Organization) said a distinction should be made between the random oppression of a minority and a systemic failure which not only sanctioned but encouraged such oppression. India and Pakistan were both currently celebrating 50 years of independence, yet the two had trodden quite different paths. India, for all its aberrations, had sought to put into place a Constitution and a legal and institutional structure guaranteeing equality for all. People belonging to different castes, religions and ethnic backgrounds had occupied the highest office in the land.

49. The founding father of Pakistan, Mohammed Ali Jinnah, had envisaged a State where people of all religions could coexist, since a person's individual beliefs were no concern of the State. The new President of Pakistan had declared his intention to consolidate the Islamization of Pakistan. While there was no necessary contradiction between his position and that of Jinnah, Islam being a compassionate religion, the catch was that the trend of governance and the predilections of successive regimes in Pakistan suggested the possibility of further oppression of both religious minorities and of women.

50. Minority communities in Pakistan felt insecure, whether they were religious or ethnic, and were deeply distrustful of the Government's census figures. Religious extremism had dominated Pakistan's polity for decades, increasingly so during the Afghan war. Sectarian clashes, assaults on Christians, the murder of Iranians by fundamentalist groups, attacks on mosques and the second-class status of women had become commonplaces.

51. That situation had not come about by accident and individuals were not to blame; the culprit was the systemic failure and narrow vision afflicting Pakistan. Democracy, without constraints, was the best guarantor of the rights of minorities and the international community should work to strengthen democratic norms through example and education.

52. Ms. SHAUMAMIAN (International Institute of Peace) said it was distressing that the potential of the Indian subcontinent had not been fully realized, partly as a result of intolerance which negated the fruits of economic development. A recent event had been encouraging however: the Prime Minister of Pakistan had expressed regret for the massacre of Bengalis by the Pakistan army in 1971.

53. The time had come for Pakistan to take a further step. The Harkat-ul-Ansar had functioned for years out of Pakistan, sending armed cadres

to India, Tajikistan and Myanmar to wage a jihad against the infidels. The consequences of their religious fanaticism were particularly dire in Indian Jammu and Kashmir, where the entire Kashmiri Pandit heritage was in danger of being destroyed for ever. Since indoctrinated bigots would probably not know how to articulate words of apology, the Prime Minister of Pakistan might discharge that obligation for them.

54. Ms. VERZEGNASSI (International Progress Organization) said that people in the north of Jammu and Kashmir - Azad Kashmir - had seen their land taken over as a staging post for the conquest of India, with no respect for their own rights and with no avenue for appeal. The High Court of Pakistan had been told that it had no jurisdiction over the area, since it was not part of Pakistan, while the High Court of Azad Kashmir said that it did form part of Pakistan. In any event, the territory, which had previously enjoyed a culture of peaceful coexistence, was being turned into a wasteland by religious fanatics who oppressed the non-Muslim minorities. Even more alarmingly, the trend was spreading to other countries in the region, such as Afghanistan. States must be made to understand that policies of xenophobia and oppression were unacceptable.

55. Mr. AHMAD (World Muslim Congress) said that discrimination based on religion and belief continued to be widespread. National mythology made it imperative that the minority should submit to the will of the majority. That applied to the Albanian minorities in parts of former Yugoslavia and to the ethnic Rohingyas, inhabitants of Arakan in north-west Myanmar.

56. The caste system, which was in contradiction to the equality of human rights, formed the foundation of Indian society, and the people belonging to the lower castes, particularly the so-called "untouchables" were constantly oppressed. The most deprived religious minority in India was the Muslim one, the largest such community and the only one to have gone into continuous decline since independence. The new Government in India, based on the Bharatiya Janata Party (BJP), was fundamentally hostile to Muslims. The BJP had been responsible for the destruction of mosques and large-scale anti-Muslim pogroms.

57. The pressures on the Muslim community were enormous. Although 17 per cent of the population, their share of senior government posts was only 2 per cent. Their opportunities for higher education were extremely limited and they were refused loans to start businesses. They were expected to merge into the larger Hindu culture and conversion to Islam, although a constitutional right, was regarded as an act of treason.

58. Mr. KIRCHER (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that the mere fact of belonging to an indigenous community increased the chances of human rights violations. He drew attention to three specific examples. The San Andrés Accords in Chiapas perpetuated the social exclusion of the indigenous people. The Mexican Government, which had deliberately broken previous agreements, intended to restrict the enjoyment of indigenous peoples' rights to "communities", to remove indigenous rights of jurisdiction and to remove their right to land and natural resources. The

proliferation of pro-Government paramilitary groups had prevented the indigenous people from exercising their right to participate in the country's political and cultural life.

59. In Colombia, the Constituent Assembly had proclaimed the multi-ethnicity of the nation, but the reality was quite different. The Pacific coastal region had been subjected to an unprecedentedly cruel paramilitary offensive which had gone unpunished, despite protests from public figures and individuals. Economic sectors which wished to exploit the area's natural resources had then moved in. Displaced peasants had, in desperation, sold their land for a pittance to members of the traditional political class. The central Government, in the name of collective ownership, had handed over land to unknown people and supported its resettlement by paramilitary groups.

60. In Western Sahara the people, who were to have a referendum on self-determination on 7 December 1998, lived as refugees or as an ethnic minority in Algeria, Morocco or western Europe. The Government of Morocco was ever more flagrantly pursuing policies detrimental to the Saharans, particularly through arbitrary detention, through non-cooperation in providing information on the fate of hundreds of disappeared people and through obstacles placed in the way of the identification process. According to a confidential circular from the Ministry of the Interior, attempts were being made to "clone" Saharans in order to distort the referendum process.

61. The CHAIRMAN said that speakers must be more careful in their language, even if it were used figuratively. The last speaker's use of the word "clone" was ill-judged.

62. Mr. TRUMBOO (International Human Rights Association of American Minorities), speaking also on behalf of the World Society of Victimology, said that the situation of African-Americans remained a cause of concern. The resource gap between affluent white schools and minority schools was staggering. The same disparities in treatment could be noted in health care and in the criminal justice system.

63. Discrimination against minorities in India continued unabated. On the eve of the new millennium, the caste system was as prevalent as it had been 50 years earlier. "Untouchables" continued to be harassed and persecuted and low-caste women were particularly vulnerable to physical violence and brutality. The Sikh and Christian minorities were also under threat.

64. Muslims represented the biggest minority group in India, but 50 years after independence, their representation in Parliament, State legislatures, administrative services, armed forces and educational institutions was far below their proportion of the national population. Such inequality was not only blatant but deliberate. Communal riots posed the gravest threat to the Muslim minority from destruction of their property and loss of life. In that connection, the Commission should call upon India to allow an independent fact-finding mission to visit occupied Kashmir to investigate the recent massacres there.

65. Mr. PADILLA (Guatemala) said that migrant flows were not a new phenomenon. From the time of the Renaissance onwards, huge numbers of people

had moved from the European continent to Africa, Asia, America and Oceania. He wondered what would have happened in Europe if those emigrants had not found a welcome and work in the countries to which they went and how excessive population might have affected the economic history of those countries which were currently considered "developed". The rich countries, had thus a moral obligation to show solidarity and protect the human rights and fundamental freedoms of migratory workers.

66. The linked problems of over population and migration could be resolved only within a framework of international cooperation and of policies designed to remedy the structural inadequacies that were at the root of both. The developing countries must adopt policies and programmes to promote sustainable human development within a framework of democracy and respect for human rights, while the industrialized countries must increase their official development assistance (ODA) target to 1 per cent of their GDP. It was, indeed, in the interest of the industrialized countries to increase their flows of financial and technical assistance to alleviate poverty and promote social development in the developing countries.

67. Though his own country had experienced the migration of around 1 million of its citizens to North America in search of work, it had recently begun to receive migrants from other Central American and South American countries and also from the Far East. His Government was cooperating closely with the International Organization for Migration (IOM), was applying a policy of protection for the human rights of those migrants, was working to combat the illegal traffic in persons and was cooperating at the bilateral level with Mexico on the question of migrant workers in the border area between Guatemala and the State of Chiapas.

68. His delegation supported the extension of the mandate of the working group on migration and urged universal ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Guatemalan Congress had recently begun the process of ratifying that instrument.

69. Mr. AMOR (Special Rapporteur on religious intolerance) said that, from the general debate, he had concluded that development and reinforcement were needed in the areas of human rights, human resources, cooperation among States and culture and education if religious intolerance was to be eliminated. He appreciated the efforts made by some States to keep him informed of developments at the national level. More than ever before, the international community must intervene to prevent intolerance before it had an opportunity to take root.

70. Mr. TODOROV (Observer for the Former Yugoslav Republic of Macedonia), speaking in exercise of the right of reply, said that the allegations by the representative of the Transnational Radical Party regarding the Albanian minority in his country were untrue and based on a lack of knowledge of the facts. The statement in question had contained a great deal of inaccurate statistical information, and he would be pleased to provide full information on the national minorities to any interested delegations. The Constitution of his country stated that all citizens enjoyed equality before the law

regardless of their ethnic origin and his country's achievements in protection of minority rights were widely recognized by the international community.

71. Mr. HASHMI (Pakistan), speaking in exercise of the right of reply, said that the representative of an NGO had delivered a litany of falsehoods and fabrications about the situation in Karachi, which his delegation deeply resented. "Muhajir" was an Arabic word meaning "he who migrates" and the Muhajirs in Pakistan were the descendants of persons who had migrated from India to Pakistan at the time of independence in 1947. They were not a distinct ethnic or linguistic group. Karachi had been the focus of a well-organized campaign of terrorism sponsored from abroad. The political problems had since been resolved, although there was still some factional fighting.

72. Three other NGOs had accused Pakistan of massacres in Kashmir, in order to cover up the reign of terror unleashed by over 600,000 Indian troops against the innocent people of that State, their only crime being to ask for their right of self-determination to be recognized.

73. In conclusion, he pointed out that the political party of the religious fanatics which had destroyed a mosque and massacred 1,000 innocent Muslims in their own country currently enjoyed an electoral majority, a fact whose implications should be of concern to the Commission on Human Rights.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION (agenda item 15) (E/CN.4/1998/2-E/CN.4/Sub.2/1997/50, E/CN.4/1998/86, 87 and Add.1, 88 and 89; E/CN.4/1998/NGO/1; E/CN.4/1997/80; E/CN.4/Sub.2/1997/11)

74. Mr. BENGOA (Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities) introducing the Sub-Commission's report on its forty-ninth session (E/CN.4/1998/2-E/CN.4/Sub.2/1997/50) said that he wished to highlight three main areas of its work: its mandate, changes in the agenda and improvement of working methods; the importance of its working groups; and the new topics and studies being discussed and prepared that should make it into a true centre for the entire international system of protection for human rights.

75. The Sub-Commission had introduced a new agenda with the number of items reduced from 22 to 14, thus allowing greater participation and more thorough treatment of the matters before it. It had also taken care to avoid duplication by not considering cases already studied by the Commission.

76. The working groups were the pillars of the Sub-Commission. As their reports showed, they had benefited from the participation of many specialized institutions and individuals involved in their specific fields. In his own personal view, a way should be found to avoid duplicating the discussions in those working groups. Discussion in the Sub-Commission should focus on specific measures rather than repeat a debate which had already taken place. The same would apply when the reports of the working groups were submitted to the Commission.

77. The Sub-Commission had requested the appointment of four special rapporteurs, including a special rapporteur on the relationship between terrorism and human rights. Eight new studies had been initiated by Sub-Commission experts, without any financial implications. Five studies were continuing. A procedure for conducting studies without financial implications had been agreed upon and the Sub-Commission had established the criteria for the priority to be given to new studies. It had decided that priority should not be given to isolated studies.

78. The changes to the agenda had permitted items to be clustered in a more logical way. The main result had been the grouping of a set of items redefined by the globalization process, a theme that had replaced apartheid as the central focus of the Sub-Commission's work.

79. Economic social and cultural rights received greater attention from the Sub-Commission with each passing year. The studies on extreme poverty, the right to adequate food, forced displacements and income distribution and human rights had been concluded. At its forthcoming session, the Sub-Commission would discuss how a social forum could be established to consider on an annual basis, the evolution of those rights in the contemporary globalized world.

The meeting rose at 1 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/SR.25
31 August 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 31 March 1998, at 3 p.m.

Chairman: Mr. SELEBI (South Africa)

later: Mr. HYNES (Canada)

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GE.98-11477 (E)

The meeting was called to order at 3 p.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1998/16)

Situation of human rights in Colombia

1. Mrs. ROBINSON (High Commissioner for Human Rights), introducing her report on Colombia (E/CN.4/1998/16), said that the mandate of the Office which had been opened in that country, as defined in the agreement concluded with the Colombian Government, had been extended for a further year. That mandate, which in her view was balanced, enabled the Office's experts to observe the human rights situation and study the measures taken by the Colombian Government to improve it. The Office was also providing the Colombian Government with technical advice on the development and implementation of its human rights policies and programmes. It was working closely with civil society, non-governmental organizations (NGOs) concerned with human rights, and the media.

2. The Office could not give useful advice unless it had a thorough understanding of the situation in the field, which it could gain by receiving complaints of human rights violations and breaches of international humanitarian law. The Office as also coordinating its activities with other United Nations agencies and programmes, including the Office of the United Nations High Commissioner for Refugees (UNHCR), and with the International Committee of the Red Cross (ICRC) on the important issue of internally displaced persons. Finally, it was liaising with and assisting the human rights treaty monitoring bodies and the mechanisms of the Commission.

3. Following the renewal of the mandate of the Office in Colombia, it had been agreed with the Colombian Government that the number of human rights officers there would be increased to 12, which implied that additional resources would have to be found. She thanked the Colombian Government for its cooperation with the Office, which had also benefited from support from numerous sectors of Colombian society. She also thanked the States and the European Commission, which had funded the Office's operations for a whole year, and looked forward to welcoming additional contributors. In conclusion, she stressed the importance of the Office that had been established in Colombia to promote the rule of law and respect for human rights, which responded to the aspirations of the Colombian people and would be a crucial contribution to efforts to achieve a just and stable peace in the country.

4. Mrs. ELJACH POLO (Observer for Colombia) said that the joint efforts made by the United Nations and the Colombian Government to establish a special mechanism for cooperation were beginning to bear fruit. The Office of the High Commissioner for Human Rights in Colombia was helping to improve the human rights situation in the country and was facilitating the quest for peace. It had assumed greater importance in the eyes of Colombian public opinion, having acquired a better understanding of the true situation in Colombia following visits by its officers to the locations that were most affected by the political violence and the internal armed conflict. As it had stated in document E/CN.4/1998/135 containing its comments on the report of

the High Commissioner, the Colombian Government would continue to facilitate the Office's activities, taking into consideration the concerns the latter had expressed and the recommendations it had made.

5. However, the Colombian Government expected the Office to propose practical solutions to ensure respect for human rights and international humanitarian law. In that connection, it believed that the increase in the number of officers would help to improve the advisory services furnished to the authorities and civil society. In the face of an internal armed conflict such as that which had been raging in Colombia for almost 40 years, the duty of any democratic State was to persevere in the quest for a negotiated settlement and, at the same time, to make tremendous efforts to guarantee and protect the fundamental rights of its citizens. While ensuring full respect for human rights should not be postponed pending the achievement of peace, the establishment of peace would undoubtedly help to ensure respect for fundamental rights. The Government and the people of Colombia were therefore making every effort to achieve those two aims.

6. In conclusion, the Colombian Government thanked all those who had played a role in the establishment of that innovative mechanism for cooperation with the Office of the High Commissioner for Human Rights and urged them to continue helping the Colombians in their quest for peace and respect for human rights.

7. Mrs. LITTLE (Andean Commission of Jurists) welcomed the extension of the agreement concluded between the High Commissioner and the Colombian Government concerning the establishment of an Office of the High Commissioner in Colombia, as well as the increase in the staffing of that Office. It was essential that the latter should receive not only all necessary economic and political support but also the requisite financial resources in order to enable it to discharge its task effectively. There was also a need to reaffirm its fundamental aims, which were to render advisory services on the promotion and protection of human rights to the governmental institutions and the representatives of civil society, and to monitor the human rights situation. In that connection, the Commission on Human Rights should request its various thematic mechanisms to continue to pay special attention to the human rights situation in Colombia in their respective annual reports.

8. History had shown that the presence of United Nations missions and offices in the field had a positive impact on critical situations when their mandate and their working methods were clear and when the parties concerned demonstrated their good faith. Accordingly, it was essential to intensify the activities and improve the functioning of the Office in Colombia so that it could make a noteworthy contribution to respect for human rights in that country.

9. Mr. ARTUCIO (International Commission of Jurists - ICJ) welcomed the fact that the mandate of the Office of the High Commissioner for Human Rights in Bogotá had been extended for a further year and that the number of experts working there had been increased to 12. The International Commission of Jurists also welcomed the report of the High Commissioner, which gave a clear account of the human rights situation in that country. That situation had deteriorated since 1997, as was shown by the increase in the activities of

paramilitary groups, the intensification of the phenomenon of forced displacements of population and the persecution of human rights activists. An average of 10 persons died every day in Colombia as a result of the socio-political violence taking place. The paramilitary groups had been responsible for 76.8 per cent of those deaths in 1997.

10. Noting that, in her report, the High Commissioner had expressed concern at the ineffectiveness of the State's military bodies when it was a question of actually opposing paramilitary groups in a resolute manner, the International Commission of Jurists pointed out that the Human Rights Committee had found links between those groups and members of the police during its consideration of the report of Colombia. It also noted that, in her report, the High Commissioner for Human Rights had urged the authorities to take into account the recommendations made by the treaty monitoring bodies as well as by the special mechanisms of the Commission on Human Rights. In fact, the Colombian Government had not cashiered the members of the armed forces who were closely involved in violations of human rights, as had been recommended by the Special Rapporteur on extrajudicial, summary or arbitrary executions. It had not taken the requisite measures to ensure that acts such as torture, extrajudicial executions and enforced disappearances were excluded from the jurisdiction of the military tribunals, as had been recommended by that Special Rapporteur and by the Special Rapporteur on torture. Finally, it had not abrogated the presidential decree establishing the special private surveillance and security services known as "Convivir", as the Human Rights Committee had recommended.

11. The International Commission of Jurists found it disturbing that the Colombian Government had acted neither on those recommendations nor on those of the Office of the High Commissioner for Human Rights in Colombia. For the human rights situation to improve, the Colombian Government's cooperation with that Office should lead to the adoption of measures and policies based on the Office's recommendations.

12. Mrs. AVELLA (Women's International Democratic Federation - WIDF) said that the violations of human rights in Colombia were increasing in magnitude and the list of trade-union leaders, militants and members, as well as human rights activists, teachers, men, women and children, who had been designated as military targets was becoming longer every day. She noted that the various Governments of Colombia had not acted on the recommendations made since 1990 by the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the need to cashier all the members of the police and armed forces who were linked to paramilitary groups. On the contrary, officers such as General Díaz, who had been accused of instigating or facilitating massacres, had been acquitted by the military tribunals and General del Río, who had been held responsible for numerous violations of human rights in the Uroba region, had even been promoted. In Colombia, everyone was aware that the armed forces were collaborating with the paramilitary groups and, consequently, violations of human rights by the forces responsible for maintaining law and order had not diminished, since those forces were acting through or in association with those groups. The elimination of political opponents was also continuing, and many of them, like Senator Motta, the Secretary-General of the Communist Party, had been forced to flee the country. During the past 11 years, 4,000 persons, including Senator Cepeda Vargas, had been

assassinated. It was evident that the speciality of the armed forces was the assassination of unarmed persons and the elimination of all those whom they regarded as being internal enemies.

13. WIDF had been informed of the emergence of a new phenomenon in the anti-guerrilla campaign, in which women had come to be regarded as spoils of war. By sexually assaulting, ill-treating and threatening relatives of the victims, the armed forces had succeeded in ensuring that no complaints were lodged. Seven female trade-union leaders had been assassinated in 1997 and the lives of at least a dozen others were being threatened. Four of the 20 human rights activists executed in 1997 were women. WIDF called upon the Commission to investigate all those violations by appointing a Special Rapporteur on the situation of human rights in Colombia.

14. Mrs. JACQUES (Lutheran World Federation), speaking also on behalf of the World Council of Churches and the World Alliance of Reformed Churches, welcomed the work being done by the High Commissioner's Office in Colombia, which merited the international community's active support. However, the Office should be encouraged to intensify its contacts with NGOs and social sectors in that country in order to promote respect for human rights and international humanitarian law.

15. The High Commissioner's report on the situation of human rights in Colombia highlighted numerous aspects of the crisis in that country and emphasized, in particular, the crucial and complex problem of impunity, which had been exacerbated by the fact that the military tribunals were vested with extensive jurisdiction to hear even proceedings relating to violations of human rights. It was therefore essential rapidly to draft and adopt legislation which clearly excluded those matters from the jurisdiction of the military tribunals and which stipulated that "due obedience" could not be invoked as a line of defence in cases involving violations of human rights and breaches of international humanitarian law. The problem of impunity was aggravated by the indulgence that had been shown towards members of paramilitary or "private justice" groups, even though the latter were believed to be largely responsible for the abuses committed in the country in recent years.

16. The attacks and intimidation to which humanitarian workers and human rights activists were being subjected, as well as the recruitment of minors into the ranks of the guerrillas or the armed forces or groups, and the increasing number of displaced persons due to the internal conflict, were further matters of concern to which the Colombian Government and the international community should give their full attention.

17. The Lutheran World Federation endorsed the request by many NGOs that the High Commissioner for Human Rights should submit to the General Assembly, at its 1998 session, a report on the activities of her Office in Bogotá and on the human rights situation in Colombia. It hoped that the Bogotá Office would continue to contribute to a resolution of the complex crisis in Colombia in a manner consistent with its people's desire for justice and peace.

18. Mrs. PARES (Pax Romana) said that the Colombian Government appeared to consider that the bodies and mechanisms established by the United Nations

lacked any legitimacy and authority. Accordingly, it had paid no attention to the recommendations that had been made by, inter alia, the Commission's Special Rapporteurs on torture and on extrajudicial executions, and by the Human Rights Committee which, at its fifty-ninth session, had urged the Government to put an end to the system of regional justice and "faceless" judges and witnesses, and to guarantee the right to legal defence. The regional tribunals were still operating, the right to due process was constantly flouted and trade-unionists, students and displaced persons who were merely demanding the return of their land and their jobs were still being prosecuted for terrorism.

19. Moreover, members of the security forces were still blatantly supporting paramilitary groups and the "Convivir" associations, which enjoyed legal recognition, which were responsible for 31 massacres in which 265 persons had been killed in 1997 and which were operating mainly in highly militarized zones. Far from being punished for their acts, the military personnel involved had even been promoted, as in the case of General Rito Alejo del Río, commander of the armed forces in the province of Uroba. Following numerous appeals to remedy that impunity, the Colombian Government had finally submitted two bills to Congress which made the enforced disappearance of persons a criminal offence and excluded violations of human rights from the jurisdiction of the military tribunals. However, according to the High Commissioner for Human Rights, those bills were not in conformity with the existing international norms in that regard and, for the moment, no action was being taken against the Colombian military personnel responsible for enforced disappearances.

20. In spite of the opening of the Office of the High Commissioner's Office in Bogotá, the structures that facilitated the violation of human rights remained unchanged, as the Colombian Government lacked the political will to improve the situation. Consequently, the United Nations should insist that the Government implement the recommendations addressed to it. Accordingly, Pax Romana requested the High Commissioner to submit her report on Colombia to the General Assembly and requested the Commission to instruct its thematic mechanisms to continue to monitor the Colombian crisis closely and to appoint a special rapporteur on the human rights situation in Colombia.

21. Mr. MONTIEL (Pax Christi International) expressed his deep concern at the human rights violations committed in Colombia in 1997, which the High Commissioner for Human Rights herself had described as serious, gross and systematic in her report. Pax Christi was particularly concerned by the situation of human rights activists, more than 20 of whom had been assassinated in 1997, including Mario Calderón and Elsa Constanza Alvarado, both of whom were active members of CINEP, and Jesús María Valle Jaramillo, Chairman of the Human Rights Committee of Antioquia. Other human rights activists had been the victims of enforced disappearance or had been subjected to threats and acts of harassment which in some cases had forced them to leave the country. Those acts formed part of a policy designed to criminalize the activities of human rights activists by portraying them as collaborators with the guerrillas. If nothing was done to put an end to the situation, it would no longer be possible to defend human rights in Colombia.

22. Pax Christi therefore endorsed the High Commissioner's recommendation No. 14 that the Colombian authorities should ensure proper recognition of the right of human rights advocates to conduct their activities without interference or unlawful hindrance and without fear for their lives, physical integrity or freedom. That recommendation should be accompanied by measures to strengthen the capacity of the Office in Bogotá. The High Commissioner should also closely monitor the implementation of the recommendations made to the Colombian Government by various United Nations bodies concerned with human rights. Finally, Pax Christi International felt that the gravity of the human rights situation in Colombia warranted the appointment of a special rapporteur of the Commission on that question.

23. Mr. FAIRBAIRN (Canadian Council of Churches) said he shared the grave concerns expressed by the High Commissioner with regard to the gross and systematic violations of human rights that were being committed in Colombia. The High Commissioner had noted, in particular, the existence of links between paramilitary groups and the State security forces and the failure of the Colombian Government to take measures to put an end to the activities of those groups and their supporters. Although those links had been attested by hundreds of eyewitness accounts, the Colombian Government still maintained that it was not supporting paramilitary groups, even though the latter had expanded throughout the country and were acting openly in highly militarized zones. That applied in particular to the Uroba region, where the abuses committed with full impunity by those groups - selective assassinations, forced disappearances and massacres - had established a climate of terror that had resulted in the forced displacement of tens of thousands of Colombians in 1997 alone. During a visit to the region in October 1997, a delegation from the Canadian Council of Churches had personally observed the open collaboration between the security forces and paramilitary groups. Yet, far from being removed from duty, General del Río, the army commander of the region, had been promoted and transferred to Bogotá. In contrast, Colonel Velasquez, his second-in-command who had dared to denounce the paramilitary-military alliance in the region, had been accused of insubordination and forced to resign.

24. The Canadian Council of Churches urged that the Chairman's statement on the situation in Colombia should faithfully reflect the grave concerns expressed in the report of the High Commissioner for Human Rights on that question, that the High Commissioner's Office in Bogotá should continue to be strengthened and that the Office of the High Commissioner should make a thorough report on the compliance of the Colombian Government with recommendations 7 and 8 in paragraphs 197 and 198 of the High Commissioner's report that the authorities should permanently disband paramilitary groups and remove from the armed forces and police any persons found to have supported paramilitary groups.

25. Mrs. CHURCH (Catholic Institute for International Relations - CIIR) welcomed the fact that, in her first report on the human rights situation in Colombia, the High Commissioner for Human Rights had characterized the violations committed in that country as "serious, gross and systematic" and had pointed out that many of those violations had occurred outside the context of the internal armed conflict and that the duty of the State to guarantee human rights applied in all circumstances. It seemed clear, therefore, that

the Colombian Government could not invoke the internal armed conflict to justify its failure to apply the recommendations made to it by international bodies.

26. CIIR also believed that the establishment of a just and lasting peace in Colombia should be based on respect for basic rights and concerted action to combat the impunity enjoyed by paramilitary groups. In 1997, the links between those groups and the State security forces had become more evident, as had paramilitary participation in the activities of the so-called "Convivir" associations. It was essential that, as recommended by the High Commissioner, the Government should carry out an effective policy for permanently disbanding paramilitary groups and putting an end to the activities of "Convivir associations" in order to eliminate their negative influence on the human rights crisis and enable the State to have absolute control over the use of force and weapons.

27. CIIR hoped that the Chairman's statement would reflect the content of the High Commissioner's report and requested the Commission to consider submitting that report to the General Assembly.

28. Mr. PEREZ (International Federation of Human Rights Leagues) regretted that, in its reply (E/CN.4/1998/135) to the report of the High Commissioner, the Colombian Government had rejected her conclusion that the violations of human rights in Colombia continued to be serious, gross and systematic. The International Federation rejected the explanations of the Colombian Government which, in paragraph 2 of its reply, claimed to be unable to fulfil its obligation to safeguard the fundamental human rights of its citizens because of the numerous factors and parties involved, which were responsible for the climate of violence, thereby attempting to give the impression that it was itself a victim of the anarchy that prevailed in the country.

29. In reality, the lack of genuine political will on the part of the Colombian Government to remedy the situation could be seen from the fact that no member of the security forces had been dismissed from his post because of participation in the criminal activities of paramilitary groups, and that the latter were acting with the approval of the security forces. Moreover, the military criminal tribunals were still acquitting military and police personnel involved in assassinations or massacres committed by paramilitary groups, in spite of the abundance of evidence against them, and the Government had refused to disband the groups of armed civilians that were thus acting in complete legality. The army also appeared to regard as "subversive" all those engaged in what it called "political warfare" - a term that covered the activities of NGOs, trade unions and some political parties, such as the Communist Party and even traditional parties.

30. Consequently, the International Federation of Human Rights Leagues requested the Commission to ensure that the High Commissioner's Office in Colombia was strengthened, to urge the Colombian Government promptly to implement the recommendations made in the High Commissioner's report, to appoint a special rapporteur to monitor the human rights situation in Colombia and, finally, to pay tribute to the memory of Jesús María Valle Jaramillo, Chairman of the Human Rights Committee of Antioquia, who had been executed at

Medellín on 27 February 1998, and to that of all the other human rights activists who had been assassinated in Colombia and elsewhere in the world.

31. Mrs. MEDINA-ROSALES NATRÁN (International League for the Rights and Liberation of Peoples) said she rejected the internal conflict argument that had been invoked by the Colombian Government to justify its failure to implement the recommendations of the High Commissioner's Office at Bogotá. The report of the High Commissioner clearly showed that the situation in Colombia was far from improving. Membership of paramilitary groups was still not regarded as a criminal offence, and the Government had vested those groups with new legal status, thus showing that it had no intention to disband them but, on the contrary, intended to use them, not only to combat the guerrillas, but also in order to eliminate human rights activists and its political opponents. Consequently, it was important to demand that the Government be held responsible for the violations committed by those groups at its instigation and with its and the army's approval.

32. Moreover, the degree of impunity in Colombia remained very high, owing to the fact that the system of regional tribunals and faceless judges was still in force, which enabled the Government to secure the conviction of all those whom it regarded as subversives on the grounds of their political, social or trade-union activities, and that the military tribunals, which totally lacked independence and impartiality, were continuing to deal with cases that should fall within the jurisdiction of the civil courts.

33. The activity of the Office of the High Commissioner for Human Rights in Bogotá was limited by the lack of dialogue with Colombian social and political organizations, such as trade unions, agricultural associations and indigenous movements, which were in the best position to provide information concerning the real situation of the economic and social rights of the Colombian people.

34. In conclusion, the International League requested the Commission to take a position on the question of the human rights situation in Colombia by appointing a special rapporteur on that question and by strengthening the High Commissioner's Office in Bogotá. It would also be useful if the High Commissioner were to visit the country periodically in order then to report on the activities of the Bogotá Office to the General Assembly. Instead of abandoning Colombia to its fate, the international community should demand that the Government implement, as a matter of urgency, the recommendations addressed to it.

35. Mr. MOTTA (American Association of Jurists - AAJ) said that he was a senator, a member of the Colombian Communist Party and, like many other Colombians, a political exile. A reign of terror prevailed in Colombia, maintained by the army, groups of armed civilians known as "Convivir" associations and paramilitary groups which, under the pretext of combating the guerrillas, were engaged in the systematic elimination of political opponents, trade unionists, social workers and human rights activists who, according to them, were waging a "political war". In reality they were practising real State terrorism by invoking defence and national security against an internal enemy as their justification, a doctrine that was incompatible with respect for human rights and international humanitarian law.

36. The Government continued to speak of the rule of law, when it was in fact maintaining a system of secret tribunals and faceless judges, enacting laws restricting public freedoms and refusing to approve the draft law on enforced disappearances because it would limit the jurisdiction of the military tribunals.

37. The Association also denounced the "Destructor II" operation being carried out by the Colombian army against the Revolutionary Armed Forces of Colombia with military help from the United States in regions where indigenous persons lived. Interference by foreign countries in the Colombian conflict certainly did not help to promote peace there. A full account was given of the worsening human rights situation in Colombia in the High Commissioner's report (E/CN.4/1998/16), and the AAJ hoped that the Commission would appoint a special rapporteur on the question and strengthen the High Commissioner's Office in Colombia.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION (agenda item 15) (continued)

(E/CN.4/1998/2-E/CN.4/Sub.2/1997/50; E/CN.4/1998/86, 87 and Add.1, 88 and 89; E/CN.4/1998/NGO/1; E/CN.4/1997/80; E/CN.4/Sub.2/1997/11)

38. Mr. LINDQVIST (Special Rapporteur of the Commission for Social Development on Disability), introducing his report (A/52/56), said that under his mandate, he had been working very closely with a group of experts consisting of 10 people from six major international organizations in the disability field having national affiliates in more than 160 countries. The exclusion which characterized the situation of disabled people took several forms, the most common of which was lack of access to certain services or programmes, as their particular needs were not taken into account, or placement in institutions, which reduced their opportunities for social integration and increased the risk of degrading treatment, sexual abuse and other forms of violence. The responses to the requests for information addressed to States in 1996 on legislation to protect the rights of disabled people had shown that in many countries there were legal provisions, regulations and practices which explicitly deprived various groups of disabled people from such fundamental rights as access to courts of law, political rights, property rights and the right to marriage and parenthood.

39. Since the drafting of the World Programme of Action concerning Disabled People, considerable progress had been made in recognition of the rights of the disabled following the study by Mr. Despouy, Special Rapporteur of the Sub-Commission on human rights and disabled people, whose report had been published in the early 1990s. General comment No. 5 of the Committee on Economic, Social and Cultural Rights should be mentioned in that regard, as should the increased attention being paid to the situation of disabled children by the Committee on the Rights of the Child, the recent work of the Commission on the Status of Women and Commission on Human Rights resolution 1996/27. Some countries had also adopted anti-discrimination legislation in the disability field. Follow-up to implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities had indicated the importance of coordinating social development and human rights activities. With regard to the drafting of a convention on

the rights of disabled people, before making such a proposal it would be better to see whether tangible results could be achieved through the use of existing instruments.

40. A disability component should be included in all relevant monitoring activities of the United Nations human rights bodies and a report should be produced on the situation of disabled people based on information from NGOs and the Special Rapporteur. The Office of the High Commissioner should offer information and training in human rights to international NGOs dealing with disability questions. Communication and cooperation between those NGOs should be improved. An international conference on human rights and disability should be convened in order to bring together human rights experts and representatives of the organizations in the disability field for more open discussion and mutual understanding.

41. Mrs. ANDERSON (Ireland), focusing her remarks on the human rights of persons with disabilities, said that Mr. Lindqvist's report reinforced the point that treatment of persons with disabilities came fully within the human rights agenda and should not be approached exclusively in a social welfare or social development perspective characterized by an emphasis on providing assistance to persons with disabilities. The two approaches should go hand in hand, as they were complementary. Nevertheless, as Mr. Lindqvist had pointed out, the word best describing the situation of disabled people was "exclusion". Disabled people lived in grim conditions in developing countries; they were relegated to institutions in many countries in transition and were still marginalized in developed countries, where they experienced many difficulties, particularly in finding employment.

42. One of the most effective tools for combating that marginalization and exclusion was the Standard Rules on Equalization of Opportunities for Persons with Disabilities, the implementation of which should be closely monitored. The link between disability and poverty should also be recognized, and bilateral and multilateral development cooperation programmes should include disability measures in their overall approach. The fundamental rights of persons with disabilities should be systematically included in all monitoring activities of the United Nations human rights entities, as was already being done by the Committee on the Rights of the Child, which in October 1997 had hosted a general discussion on the rights of children with disabilities and continually raised the question of disabled children during its consideration of States parties' reports.

43. Ireland was aware of the need for action on behalf of persons with disabilities. It was in that spirit that it had developed a comprehensive database on the service needs of all mentally handicapped persons in the country and how to meet those needs. A new education bill containing particular provisions on the needs of students with disabilities was planned, and training and employment services were being restructured in an effort to deal with high rates of unemployment among disabled people.

44. It was important not to talk of disabled persons as victims; they should themselves participate in developing strategies on their behalf. Human rights institutions and Governments could cooperate with NGOs active in the disability area which possessed a tremendous depth of knowledge and

experience. Her delegation would be presenting a draft resolution on the human rights of disabled persons which it hoped would be adopted by consensus.

45. Mr. KALLEHAUGE (Denmark) said that the disabled community was the largest minority in the world today. Unlike women and children, refugees and victims of racial and religious persecution, disabled people had no automatic right to protection under international law. That was why the organizations of disabled people urged the Commission to take action at the present session by adopting a resolution with a clear and direct message to all nations that, individually and collectively, persons with disabilities had a right to equal opportunities and to non-discrimination. Human rights were universal and applied to all human beings, including persons with disabilities, because all people were born equal and had the same inalienable right to life, education, work, independent living and access to active participation in society. Any discrimination against persons with disabilities would be inconsistent with the Standard Rules on Equalization of Opportunities for Persons with Disabilities and would therefore be an infringement of their human rights.

46. Under those rules, persons with disabilities individually had a right to effective medical care and rehabilitation services to enable them to reach and sustain their optimum level of independence and functioning. They were also entitled to live independently and to participate actively in society, as well as to have access to the physical environment, information and communication, shelter, infrastructure, public transport services and all other basic services. They should furthermore have access to education and studies at all levels and to employment, and should enjoy the same social security benefits as the rest of the population. Lastly, they had the right to participate fully in the development process. Unfortunately, all those rights were still but a dream for most disabled persons around the world. That situation would not change unless Member States acknowledged the unequal conditions under which the disabled community lived. Persons with disabilities must make themselves heard as an integrated group in order to attract the attention of the politicians. The integration of disabled people into political life was the best way to create equality of opportunity.

47. Individually and collectively, persons with disabilities had the right to found and belong to representative organizations, as well as to participate in rehabilitation programmes and regional, national and local plans concerning all target areas for equal participation, in accordance with Rules 1 to 12. Persons with disabilities should be included in all strategies aimed at eradicating poverty, promoting education and enhancing employment.

48. Three principles of interpretation should always be borne in mind when dealing with disability issues. First, it was incumbent upon anyone who did not respect the Rules to substantiate that that treatment did not constitute discrimination against disabled persons. Secondly, no national or international legal instrument must be interpreted to place persons with disabilities at a disadvantage or offer them less protection than was offered to other persons. Thirdly, whenever a particular group of vulnerable, marginalized or impoverished persons was mentioned in a human rights instrument, the text should be read to include persons with disabilities as belonging to the group. Observance of those three principles would contribute

considerably to the mainstreaming of the human rights of persons with disabilities in all the human rights activities of the United Nations and most of its Member States.

49. Mr. DRZEWICKI (Poland) said the Polish delegation had always been in favour of further examination of the issue of minimum humanitarian standards. Such standards could help to offset the failures of existing legal instruments and consequently help to minimize untold human suffering. It welcomed the report of the Secretary-General (E/CN.4/1998/87 and Add.1), which helped significantly to clarify the issue of the applicability of minimum standards and set the framework for future discussions. As to the terminology, it was better to speak of "standards of humanity" than "humanitarian standards", and he also did not object to replacing "minimum" by "fundamental", although the term might generate unnecessary discussion on those standards which might not be considered fundamental. His delegation welcomed the focus in the report on human rights abuses in situations of internal violence. More information should be collected in order to gain a fuller picture of such abuses (E/CN.4/1998/87, para. 37). However, the report underestimated the need to promote universal ratification of the two international Covenants on human rights, merely stating that they had been ratified by a "solid majority of Member States".

50. Fundamental standards were needed to remedy the failure of the international community to come to an agreement on the scope of the escape clauses in international human rights treaties. Poland, which had had its own experience with martial law in 1982, was well-placed to know that the provisions of international instruments could be bypassed. In a broader context, the proclamation of states of emergency had become a regular practice after the Second World War, to the extent that some nations had lived longer under states of emergency than under a democratic system. Furthermore, international supervision in that field was particularly weak. The next report should pay particular attention to that problem.

51. The Polish delegation welcomed the report's establishment of guidelines for the identification of customary rules. The study on the question currently being carried out by the ICRC should be duly taken into account in the course of further discussions by the Commission. Some of the new developments indicated in the report were encouraging, such as the emergence of case law from the International Criminal Tribunals established for the former Yugoslavia and Rwanda, which demonstrated that minimum standards applied in all situations, particularly in internal conflicts, in which human dignity was threatened. Poland held high hopes for the Diplomatic Conference to be held in Rome in June and July 1998 and which would most likely address the question of violence in situations of internal disturbances and responsibility for human rights abuses within the framework of the creation of an international criminal court. The Vienna Declaration and Programme of Action had called on the international community to support the strengthening and promotion of democracy, development and respect for human rights and fundamental freedoms throughout the world. Those fundamental objectives would not, however, be achieved unless fundamental standards of humanity were applied to all Governments, all other entities and all situations. In that

spirit, Poland lent its support to the proposal that the Secretary-General, in coordination with the ICRC, should be requested to continue his study of fundamental standards of humanity.

52. Mr. ALFELD (South Africa) welcomed the Secretary-General's analytical report on fundamental standards of humanity (E/CN.4/1998/87 and Add.1), which contained a lucid listing of the advantages and disadvantages of such standards. That listing would ease the task of those responsible for education in the field of human rights, which was a matter of crucial importance. His delegation was particularly in favour of the use of the expression "fundamental standards of humanity", which would not only avoid the negative and misleading connotation of the term "minimum humanitarian standards" but would also serve as a reminder that the purpose of the exercise was definitely not to place a limitation on existing standards.

53. He recalled that the participants in the International Workshop on Minimum Humanitarian Standards, held in Cape Town in September 1996, had encouraged Governments, international and regional organizations, as well as NGOs and civil society, to promote a debate on the need for the use of fundamental standards of humanity applicable in all circumstances, as well as on practical measures aimed at the improvement of the situation of those affected (E/CN.4/1997/77/Add.1, annex). The situation of those exposed to extreme suffering because of inadequate protection was too often overlooked. It was clear that existing international law relating to human rights and humanitarian norms applicable in armed conflicts did not adequately protect human beings in situations of internal violence, disturbances, tensions or public emergencies. It was well documented that the majority of present-day conflicts fell into exactly that category. The international community should take action to address those shortcomings.

54. A logical first step would be to ensure that all countries had appropriate national legislation for dealing with situations of internal conflict and to attempt to improve the promotion, implementation and observance of existing standards, inter alia by urging the universal ratification of international human rights treaties and of the 1949 Geneva Conventions and their 1977 Additional Protocols, including the acceptance of the competence of the International Fact-Finding Commission established under article 90 of Additional Protocol I. Such measures relied heavily on the provision of legal and technical assistance to Governments, especially those in the developing world, with a view to capacity- and institution-building in those spheres. He commended the good work done by the Advisory Services Unit of the Office of the High Commissioner and by the ICRC. On the African continent, the move towards establishing an African Court of Human Rights and the strengthening of the conflict-prevention mechanisms of the Organization of African Unity (OAU) were positive developments in that regard. South Africa strongly supported the creation of an independent and effective international criminal court.

55. It was clear that fundamental standards of humanity should not preclude simultaneous efforts to address the root causes of conflict, such as poverty and underdevelopment. It would be regrettable for the debate to become bogged down in consideration of the possible effect of the standards on the sovereignty of States. The potential beneficiaries of those rules, the

unprotected victims, deserved a better response from the international community. South Africa supported Switzerland's proposal that the Secretary-General's analytical report be discussed at a seminar to be organized by the Commission on Human Rights.

56. Mr. SINGH (India) said that he welcomed the steps taken by the Sub-Commission to reform its working methods. It was important that the process should continue so that the Sub-Commission could fulfil its role as a "think-tank". Rationalization of the Sub-Commission's agenda should be followed up with better time management, as over 60 per cent of the time during the forty-ninth session had been taken up with interventions by observers and NGOs. That would be a way of re-establishing the primacy of the Sub-Commission as a forum of experts. His delegation also encouraged the Sub-Commission to examine how discussions in the Working Groups on minorities, contemporary forms of slavery and indigenous populations could be better followed up. India fully supported the proposal of the Sub-Commission to extend the mandate of the Working Group on Minorities, which had identified constructive and practical solutions that could bring about meaningful change on the ground. The Sub-Commission should examine practical measures to promote tolerance and pluralism as a means of strengthening democracy and the enjoyment of all human rights, as well as combating prejudice, discrimination and intolerance.

57. Efforts to prioritize, focus and systematize the conduct of studies had got off to a good start. The concise reports prepared after each session, analysing the plenary debate on each of the working papers, would enhance the understanding of Member States of current developments in the field of human rights. The Indian delegation commended in particular the working paper on terrorism and human rights and supported the Sub-Commission's recommendation that a full-fledged study on the subject should be conducted. The Sub-Commission should strengthen and expand its work in the area of the right to development and economic, social and cultural rights, preparing a draft declaration on human rights and extreme poverty which would highlight the link between development and human rights.

58. The status of contributions to the United Nations Voluntary Fund on Contemporary Forms of Slavery was a matter of concern to India, which urged the Office of the High Commissioner to intensify its efforts to remedy the situation. The Sub-Commission should continue to seek "constructive solutions" for the different human rights problems, by providing a forum for the exchange of information on "best practices" in different parts of the world. The Sub-Commission could thereby play a dynamic role in advancing the cause of human rights.

59. Mrs. MARKUS (Observer for the Libyan Arab Jamahiriya) said there were 500 million disabled men, women and children throughout the world. Despite the many instruments referring to the rights of the disabled, from the 1969 Declaration on Social Progress and Development to the Beijing Declaration and Platform for Action of 1995, that 10 per cent of the world's population was still living in difficult conditions that prevented them from exercising their fundamental rights and deprived them of the possibility to participate in society. Islam and Sharia clearly emphasized the need to provide assistance to needy persons. That was why Libya had initiated the

General Assembly's proclamation of 1981 as the International Year of Disabled Persons, which had been focused on the prevention of disability and the full participation of disabled persons in society. In its resolution 37/53 on the implementation of the World Programme of Action concerning Disabled Persons, the Assembly had urged the organizations of the United Nations system to recognize the needs of disabled persons. In that connection, Libya believed it was necessary to create a body that, under the supervision of the Office of the High Commissioner, would be in charge of monitoring respect for the fundamental rights of disabled persons. A convention should also be drafted on the subject.

60. Mr. Hynes (Canada) took the Chair.

61. Mr. ROMARE (Observer for Sweden) said that Sweden had always actively supported United Nations activities in the field of disability. It had, for example, initiated the drafting of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly in 1993, which complemented the World Programme of Action concerning Disabled Persons, adopted by the General Assembly in 1982. The rules were aimed at helping disabled persons to take charge of their lives.

62. Two thirds of the disabled persons of the world lived in developing countries where the services they needed to assist them were scarce or non-existent. Their human rights were being violated. Many of them were among the poorest of the poor, and women with disabilities were triply handicapped. Their need for gender equality and for empowerment was particularly urgent. Children with disabilities were also especially vulnerable. All too many of them did not go to school because they lacked transport facilities, or simply because teachers did not want them in the classroom. Special attention should also be given to persons with psychiatric disabilities, as they were more vulnerable than other disabled persons and were less able to defend their rights.

63. In view of the importance of the work of NGOs on behalf of the disabled, in particular the organizations of the disabled themselves, the Swedish delegation fully supported the recommendations of the Special Rapporteur to create closer cooperation between NGOs, the United Nations human rights entities and the Standard Rules monitoring mechanism.

64. Mr. ROSSI (International Association for Religious Freedom), before referring to the question of minorities, said that, contrary to what had been asserted, to his great astonishment, by an expert of the Sub-Commission at its last session, any group that professed a faith different from that of the majority of the population, even if it had the same ethnic, linguistic or other characteristics, must be considered a religious minority under national and international law. It was essential to protect such minorities against religious extremism.

65. In India, for example, Hindu nationalists wanted to turn the country into a Hindu State, which raised fears among the Muslim minority. In the State of Jammu and Kashmir, on the other hand, where the population was mostly Muslim, it was the Hindu minority that was having difficulties. The Hindu community of the Pandits, which had been settled for centuries in the

Kashmir valley, had for several years been the target of ethnic and religious cleansing. On 25 January 1998, terrorists had massacred 23 Pandits, including nine women and four children, in the village of Vandahama, near Srinagar. Before leaving the village, the terrorists had set fire to the small Pandit temple.

66. The Association therefore urged the Commission to recommend to the Sub-Commission and its Working Group on Minorities to pay closer attention to the situation of religious minorities. It also called upon the Sub-Commission to urge the Governments of Pakistan and India to spare no effort to find a political solution to the problem of Kashmir, to reject all forms of violence and ethnic and religious cleansing and to guarantee respect for the rights of all minorities, including the Pandit minority, which should be able to return to the Kashmir valley and live in peace with the Muslim majority.

67. Mr. TEITELBAUM (American Association of Jurists) called the attention of the Commission to the case of Waldo Albarracín, President of the Permanent Human Rights Assembly of Bolivia and a member of the American Association of Jurists, who had been invited by an NGO, Oxfam Quebec, to go to Canada in 1998. When the aeroplane carrying him from Bolivia to Canada had stopped in Miami, he had been treated as a criminal by the United States authorities. After subjecting him to a body search and taking away all his personal effects, he had been forbidden to continue his journey and had been sent back to Bolivia, even though all his papers and tickets were in order. That constituted a flagrant violation of article 12 of the International Covenant on Civil and Political Rights, on the right to freedom of movement, to which the United States was a party. He pointed out in that connection that none of the 17 reservations that had been entered by the United States Government concerned article 12. That new incident was part of the framework of repression organized from the United States and aimed for decades at democratic and popular figures and movements from Latin America.

68. The Association had filed a lawsuit for Mr. Albarracín to obtain compensation.

69. Mr. PANDITA (African Commission of Health and Human Rights Promoters) said that, in its resolution 1996/20, the Sub-Commission had reiterated its unequivocal condemnation of all acts, methods and practices of terrorism regardless of their motivation, in all its forms and manifestations, wherever and by whomever committed, as acts of aggression aimed at the annihilation of human rights, fundamental freedoms and democracy, threatening territorial integrity and destabilizing legitimately constituted Governments, and undermining pluralistic civil society. That statement should serve as a basis for an acceptable definition of terrorism. There appeared to be no need for the Special Rapporteur on terrorism and human rights to rake up controversies over the definition by linking the issue to national liberation struggles or struggles for the right of self-determination.

70. It was also important to remain vigilant in the face of new forms of terrorism. His organization called in particular for more concrete steps to combat and eliminate transnational terrorism. The Cuban Government had drawn the attention of the Special Rapporteur to States which allowed known terrorist groups to remain based on their soil and then operate in

neighbouring countries with total impunity. Subscribing to that observation, the League of Arab States had proposed that States should be urged to refrain from sheltering outlaws, prohibit hostile activity against another State, cease interfering in the internal affairs of other States and respect their independence and sovereignty.

71. Recently, transboundary terrorism had caused new victims. On 25 January 1998, 23 members of the Pandit minority, including 9 women and 4 children, had been savagely killed in the village of Wandahama in Jammu and Kashmir. The Pandits were not the only victims. On 4 July 1995, five European tourists had been taken hostage in Kashmir by terrorists. The organization Harakatul Ansar, alias Al Faran, had claimed responsibility. One of the hostages had been found beheaded a month later, and the whereabouts of the other four were still unknown. In October 1997 the head of that terrorist organization, Fazlur Rehman Khalil, had publicly stated in Rawalpindi (Pakistan) that its 10,000 activists were carrying out a jihad in Kashmir against the infidels. Pakistan seemed to have fallen into the hands of extremist organizations supporting transboundary terrorism.

72. The United Nations system possessed the necessary legal arsenal to eliminate the threat of transboundary terrorism; the question was whether there was the will to use it.

73. Mrs. TANAKA (International Movement against All Forms of Discrimination and Racism) drew the attention of the Commission to the urgency of investigating the modern manifestations of trafficking in women and girls, including the globalization of the international sex trade; increased organization of the traffickers, who often benefited from the collusion of government officials, tourist agencies and airline companies; and diversification in the purposes of trafficking, including forced marriages and other forms of sexual exploitation.

74. In a study conducted by her organization on the trafficking of Asian women to Japan, it had become apparent that in most cases those women became or remained prostitutes because of poverty and unemployment, lack of proper reintegration services, adverse social attitudes or family pressure. It was therefore not sufficient merely to oblige States to punish the exploitation of the prostitution of others; they must also be obliged to address the root causes of trafficking, penalize the traffickers and reintegrate the victims. An independent supervisory body should also be empowered to monitor the implementation of those obligations through the scrutiny of State reports and information provided by NGOs.

75. To that end her organization would transmit to the Working Group on Contemporary Forms of Slavery a draft optional protocol to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which would include provisions to empower the victims and survivors of trafficking to exercise a certain number of rights, including the right to bring civil suit against their traffickers; to facilitate the work of NGOs; to penalize the culprits of trafficking and their accomplices more severely; to strengthen the implementation of the 1949 Convention through

enhanced State reporting procedures, individual complaints procedures and mandatory national plans of action; and to set up a special fact-finding mechanism.

76. Mrs. SMALLWOOD (North-South XXI) said that it was not until 1967 that the Australian indigenous people had obtained citizenship. Because of the genocide of which they had been the victims, they represented only 1.6 per cent of the Australian population. Between 1910 and 1970, a large number of indigenous children had been forcibly removed from their families. Under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, such a policy amounted to genocide. Australia had ratified that Convention in 1949.

77. The indigenous people of Australia constituted a fourth world in the midst of a wealthy developed country. The infant mortality rate of indigenous children was three times greater than that of other babies; indigenous life expectancy was 25 years lower than that of other Australians; and indigenous unemployment was five to six times greater than that of other Australians. In remote rural areas, indigenous communities still lacked basic infrastructure, such as clean drinking water. Politicians were currently trying to take away the land rights of indigenous people. Funding for the Indigenous Affairs Department was being cut, and racial intolerance was being allowed to enter the political spectrum.

78. In Kakadu National Park, indigenous people were opposing all uranium mining, because for them the land was sacred. The Government reasoned purely in terms of economics and did not consider the indigenous people's cultural ties to the land. Her organization called on the United Nations to take the concerns of the indigenous people of Australia into account and to intervene.

79. Mrs. POLONOVSKI-VAUCLAIR (Coalition against Trafficking in Women) said that the prostitution and trafficking of women and girls had reached epidemic proportions in many Asian countries, and in Taiwan in particular. Thailand was the major sending country, and Japan was the major destination, where some 150,000 women and girls were working in the Japanese sex industry, roughly 80 per cent of them Thais and Filipinas, and 20 per cent Korean and Taiwanese. Taiwan was the hub of the traffic, one consequence being that Taiwanese girls and women were being increasingly targeted by the pimps and traffickers: between 60,000 and 100,000 women and girls worked in the sex industry, and the figure was much higher when migrant women workers were added.

80. There were three central means of recruitment. First of all, in recent decades brokerages and agencies had been introducing "international brides" into Taiwan and, according to the Taiwan Grass-Roots Women Workers' Centre, by the end of 1996 there were 130,000 such women. Once in Taiwan, they were moved into prostitution and other forms of sexual exploitation or transferred to Japan to work in the sex industry there. Secondly, since the 1950s women from 10 indigenous tribes of Taiwan had been targeted by the sex industry, which had strong ties to organized crime. Some 5,000 of them had reportedly been sent to Japan. Thirdly, Chinese minority women refugees in the northern border zones of Thailand and Cambodia who could not work in either of those

countries because of their refugee status, were also targeted. After being sent to Taiwan with migrant worker status, they were forced to work in the sex industry.

81. One very urgent problem was health. Because of their illegal status, women could not receive welfare or medication. Given the alarming proportions reached by AIDS in Thailand, the figures for HIV positives and AIDS in Taiwan remained underestimated. With the development of the Thailand-Taiwan-Japan linkage, the AIDS situation was extremely alarming, given the lack of systematic investigation or transparency. As Taiwan remained a closed State, the international community should be aware of the increasing danger of the epidemic and provide women and girls with access to the international agencies.

82. It was obvious that the situation of trafficking in women in Taiwan had become worrisome. The Commission was therefore urged to take the necessary measures to provide easy and direct access for Taiwanese NGOs to United Nations bodies and specialized agencies. The Special Rapporteur on violence against women should conduct a thorough investigation and report on trafficking in women and girls, the international bride market and domestic labour and prostitution in south-east Asia, including Taiwan.

83. Mrs. BECK-HENRY (World Movement of Mothers) said that in many countries, the place and role of mothers in society was not recognized. Aid and payments to mothers, according to the particular circumstances or the country concerned, made them perpetual welfare recipients. The World Movement of Mothers believed that mothers were workers in their own right and that the status of mother, whether she stayed at home or engaged in an occupation outside the home, should be established. Mothers should be legally and financially entitled to choose the number and needs of their children, based on the stability of the family, particularly if the children were disabled or needed special attention or assistance.

84. She called on the Commission to render justice to mothers and urged all countries to give them the place they deserved.

The meeting rose at 6 p.m.